

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section lxxi as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix.

## SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

## Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [or Mookhtar], whose place [or places] of business is [or are] at \_\_\_\_\_ hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, or the Moonsiffs' Courts as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 186 .

C. D.

Registrar [or as the case may be] of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

## THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

## Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. \_\_\_\_\_ of \_\_\_\_\_ is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower Provinces, or as the case may be], and in any office subordinate thereto in such Provinces, for

the period of one year from the date hereof. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 186 .

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of  
India, Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

## ACT No. XXI of 1865.

*An Act to define and amend the Law relating to Intestate Succession among the Parsees.*

Whereas it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows:—

1. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

2. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

3. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

**4. When a female Parsee dies leaving chil-**

Division of property amongst the children of female Intestate who leaves no widow.

dren but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

**5. If any child of a Parsee Intestate shall**

Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.

have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child

had died immediately after the Intestate's death.

**6. Where a Parsee dies leaving a widow or**

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property

as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

**7. When a Parsee dies leaving neither lineal**

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to

the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

**8. The following portions of the Indian Suc-**

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

cession Act, 1865, shall not apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

**THE FIRST SCHEDULE.**

(1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

(2.) Grandfather and grandmother.

(3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

(4.) Great grandfather and great grandmother.

(5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

**THE SECOND SCHEDULE.**

(1.) Father and mother.

(2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

(3.) Paternal grandfather and paternal grandmother.

(4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(5.) Paternal grandfather's father and mother.

(6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

(7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

(8.) Maternal grandfather and maternal grandmother.

(9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

(10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,  
Home Dept., (Legislative.)



**HOME DEPARTMENT.**

No. 3439.

**NOTIFICATIONS.***Fort William, 7th April 1865.*

The Governor General in Council is pleased to attach Messrs. F. P. Beachcroft and A. W. Stogdon, of the Civil Service, reported qualified for the Public Service, to the North-Western Provinces, the Punjab, and Oudh, and to place their services at the disposal of the Foreign Department.

No. 3441.

*The 12th April 1865.*

Mr. G. L. Lang, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year, from the date of embarkation.

No. 3442.

The Governor General in Council is pleased to invest Dr. J. C. Corbyn, Inspector of Jails, and Superintendent, Central Prison, with the powers of a Magistrate, as described in Section 22 of Act XXV of 1861, within the precincts of the Lucknow Central Jail.

No. 3444.

Captain J. Loch, Assistant Commissioner, Central Provinces, is appointed to officiate as Judge of the Court of Small Causes, Nagpore, as a temporary arrangement.

No. 3446.

*The 13th April 1865.*

The under-mentioned Officers, attached to the Topographical Branch, Survey Department, are allowed privilege leave of absence for three months, from the dates on which they may respectively avail themselves of the same, at the close of the present Survey Field Season, making over charge of their Offices to the Senior Assistants of their respective parties:—

Lieutenant Colonel G. H. Saxton, Staff Corps, in charge of No. 3 Topographical Party, Ganjam and Orissa Survey.

Captain G. C. Depree, R. A., in charge No. 4 Topographical Party, Chota Nagpore Division Survey.

No. 3448.

Mr. J. B. N. Hennessey, 1st Assistant, Great Trigonometrical Survey, returned on the 10th instant, from furlough to Europe on medical certificate, and resumed the duties of his appointment on the following day.

No. 3449.

Mr. William Blunt, of the Civil Service, has reported his departure from India per Steam Ship "Mooltan," which vessel was left by the Pilot at Sea on the 24th of March.

No. 3450.

In Notification No. 1765, at page 230 of the *Gazette of India*, for the word "afternoon," read "forenoon."

No. 3452.

Leave of absence for three months is granted to the Hon'ble W. Morgan, Puisne Judge of the High Court of Calcutta, under Section 6 of the Covenanted Absentee Rules, with effect from the date on which he may avail himself of the same.

No. 3460.

Mr. David Simson, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year nine months and twenty-eight days from the date of embarkation.

A. M. MONTEATH,

*Under Secy. to the Govt. of India.***FOREIGN DEPARTMENT.****MILITARY.**

No. 160.

*Fort William, the 13th April 1865.*

The following order, issued by the Officer Commanding Central India Horse on 1st April 1865, is confirmed:—

"Lieutenant J. S. Irvine, Adjutant, 1st Regiment at Augur, will receive charge of the Staff Office from Captain J. D. Hall, of the 2nd Regiment, consequent on the removal of the Head Quarters of the Force from Goona to Augur."

**GENERAL.**

No. 841.

*The 11th April 1865.*

Mr. A. Young, Officiating Deputy Commissioner of Durriabad, in Oudh, has obtained fifteen days' leave of absence from the 25th ultimo, under the Rules applicable to Military Officers in Civil employ.

No. 843.

Assistant Surgeon J. C. Morrice, of the 16th Bengal Cavalry, is appointed to the medical charge of the Gwalior Political Agency, in addition to his own duties, vice Surgeon Major S. A. Homan.

No. 845.

Captain H. C. Menzies, Assistant Commissioner, Oomraotee District, has obtained privilege leave of absence for three months, from the date of making over charge of his Office.

No. 853.

*The 12th April 1865.*

Lieutenant A. H. Eckford, Assistant Commissioner of Sultanpore, in Oudh, has obtained privilege leave of absence for three months, from the 23rd ultimo.

No. 857.

*The 13th April 1865.*

His Excellency in Council is pleased to make the following declaration under Section 197 of the Code of Criminal Procedure for the purposes of that Code:—

The ordinary language in use in the districts of the Jubbulpore and Nerbudda Divisions of the Central Province, excluding Nimar, is Oordoo.

The ordinary language in use in the district of Nimar is Hindee.

The ordinary language in use in the districts of the Nagpore Division is Mahrattée.

The ordinary language in use in the district of Seroncha is Teloo goo.

The ordinary language in use in the districts of Raepore and Belaspore is Hindee.

The ordinary language in use in the district of Sumbulpore is Oorya.

No. 858.

His Excellency the Viceroy and Governor General in Council is pleased to extend Act XXIX of 1837 to the Central Provinces, and, under the

authority contained therein, to declare that the language to be used in the proceedings before the Civil Courts in the Central Provinces shall, as regards the Courts in each district, be the same as the language prescribed under Section 197 of the Code of Criminal Procedure to be used in such district for the purposes of the said Code.

No. 860.

Lieutenant Colonel W. F. Eden, appointed in G. O. No. 812, dated 7th instant, to be Agent to the Governor General for the States of Rajpootana, received charge of the Agency from Lieutenant A. N. Bruce on the 3rd idem.

A. COLVIN,

*Offg. Under Secy. to Govt. of India.*

### FINANCIAL DEPARTMENT.

No. 2066.

*Fort William, the 10th April 1865.*

#### NOTIFICATIONS.

*Statement of the amount of Government Currency Notes in circulation, of the amount of Coin and Bullion Reserve, and Government Securities held by the Department of Issue of Paper Currency.*

Date of Return.	Circles of Issue.	Notes in Circulation.	Silver Coin Reserve.	Silver Bullion Reserve.	Government Securities.	Government Securities held in Calcutta.
1865.						
April 1st	Calcutta Circle ...	2,97,94,920	89,28,233	20,03,420	50,00,000	1,38,63,267
" "	Allahabad Branch do.	19,14,480	10,10,576	690	...	9,03,214
" "	Lahore do. do.	14,47,540	8,36,832	10,730	...	5,99,978
" "	Nagpore do. do.	19,09,030	15,61,168	.....	...	3,47,862
March 25th	Madras Circle ...	54,00,000	23,97,155	.....	...	30,02,845
" "	Calicut Branch do.	2,12,310	2,12,310	.....	...	.....
" "	Trichinopoly do. do.	2,70,330	2,70,330	.....	...	.....
" "	Vizagapatam do. do.	2,63,910	2,63,910	.....	...	.....
April 1st	Bombay Circle ...	3,37,00,000	1,44,71,992	.....	22,00,000	1,70,28,008
		7,49,12,520	2,99,52,506	20,14,840	72,00,000	3,57,45,174
Deduct—	Notes of other Circles cashed at Head Office ...	6,33,920	6,33,920	.....	...	.....
	Total ...	7,42,78,600	2,93,18,586	20,14,840	72,00,000	3,57,45,174

DEPARTMENT OF ISSUE OF PAPER CURRENCY,  
CALCUTTA,  
Dated 4th April 1865.

(Signed) H. HYDE,  
Head Commissioner, Department of Issue  
of Paper Currency.



No. 2071.

*The 12th April 1865.*

Mr. E. S. Byrne received charge of the Office of Deputy Auditor and Accountant General, Hyderabad, from Mr. J. Rose, on the afternoon of the 28th March 1865.

No. 2076.

*The 13th April 1865.*

*Extract from the Proceedings of the Government of India, in the Financial Department.*

Read a letter from the Civil Pay Master, N. W. Provinces, No. 60-325, dated the 13th March 1865, enquiring whether the Return of Uncovenanted Servants (European and East Indian) required to be submitted to the Right Hon'ble the Secretary of State, in conformity with instructions contained in paragraph 4 of his Financial Despatch No. 161, dated 30th June 1864, should be prepared in the old form, and, in case of any modification, pointing out that it would be useful to retain the column showing the age of Uncovenanted Servants to enable Government to know at any time all persons whose time of compulsory retirement was at hand.

Read a Report on the above by the Deputy Auditor and Accountant General, Bengal, No. 51, dated 28th March 1865.

**RESOLUTION.**—The Governor General in Council is pleased to resolve that the Return of Uncovenanted Servants (European and East Indian) required by the Right Hon'ble the Secretary of State, shall be prepared in future in the following form:—

*List of Uncovenanted Civil Servants (European and East Indian) in the Office of*  
*on the 1st May 1865*

1	2	3	4
Name.	Description of Appointment.	Salary.	Period of residence in India.

2. With regard to the enquiry whether any record should be kept of the age of Uncovenanted Servants (European, East Indian, and Native), the Governor General in Council observes that it should be kept in the Leave Registers in the Civil Pay Master's Office from information furnished by Heads of Offices, who should be careful to note in the Pay Abstract in which pay may, for the first time, be drawn for an Uncovenanted Officer eligible to pension, his age on his first admission into the service.

Ordered, that a copy of the above Resolution be sent to the Military and Public Works Departments for information and guidance, in respect of Uncovenanted Servants under the control of those Departments.

Ordered, also, that a copy of the Resolution be sent to the Civil Pay Masters, Madras, Bombay, N. W. Provinces, and the Punjab, the Deputy Auditors and Accountants General, Bengal, British Burmah, Hyderabad, and Central Provinces, and the Accountant General to the Government of India, for information and guidance.

Ordered, also, that a copy of the Resolution be published in the *Gazette of India* for general information.

No. 2095.

Baboo Madhub Chunder Chatterjee, Principal Native Assistant in the Account Branch of the Financial Secretary's Office, is allowed privilege leave of absence for three months, commencing from 8th instant, under Financial Notification, dated 31st July 1863.

No. 2099.

Mr. J. Christie received charge of the Office of Civil Pay Master, Bombay, from Mr. H. A. Mangles on the afternoon of the 31st March 1865.

E. H. LUSHINGTON,  
*Secy. to the Govt. of India.*

### MILITARY DEPARTMENT.

*Fort William, the 8th April 1865.*

No. 378 of 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, Deputy Assistant Commissary Andrew Stoney, of the Ordnance Commissariat Department, who is reported to be unfit for further active service, is, as a special case, transferred to the Pension Establishment, on a stipend of Rs. 121-12 per mensem, payable in India.

*The 10th April 1865.*

No. 379 of 1865.—The services of Lieutenant G. N. Ross, 12th Madras Native Infantry, are placed temporarily at the disposal of the Home Department.

No. 380 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

**PUNJAB IRREGULAR FORCE.**

*No. 1 Light Field Battery.*

Lieutenant H. S. Hutchinson, Royal Artillery, to officiate as Doing-duty Officer, vice Lieutenant V. Rivaz, appointed to No. 2 Light Field Battery.

No. 381 of 1865.—The under-mentioned Non-Commissioned Officer is admitted to pension as specified opposite to his name:—

Quarter Master Sergeant } 2s. (two shillings) per  
James Hoccy, attached to } diem, payable in  
the Convalescent Depôt at } Europe.  
Darjeeling.

No. 382 of 1865.—The under-mentioned Officer has reported his return from England:—

*Date of arrival  
at Fort William.*

Captain H. C. Sitwell, of } 31st March 1865.  
the late 5th European Light }  
Cavalry.

No. 383 of 1865.—The following extract from the *London Gazette* of the 7th February 1865 is published for general information:—

**WAR OFFICE, PALM MALL,**

*7th February 1865.*

*Brevet.*

Lieutenant General Sir William Mansfield, K. C. B., to have the local rank of General in the East Indies, dated 7th February 1865.

Major General Sir Robert Napier, K. C. B., to have the local rank of Lieutenant General in the East Indies, dated 7th February 1865.

*The 12th April 1865.*

No. 384 of 1865.—The services of Lieutenant W. F. Badgley, of the Staff Corps, Adjutant, 26th Regiment Native Infantry, are placed at the disposal of the Home Department.

No. 385 of 1865.—Lieutenant A. L. Heyland, Royal Artillery, is permitted, at his own request, to resign his appointment as Private Secretary and Aide-de-Camp to the Hon'ble the Lieutenant Governor of the Punjab, and his services are accordingly placed at the disposal of His Excellency the Commander-in-Chief, with effect from the 25th April 1865.

No. 386 of 1865.—The services of Captain C. McW. Mercer, of the Royal Artillery, are placed at the disposal of the Government of the Punjab.

No. 387 of 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 61, dated the 9th March 1865, is published for general information:—

MILITARY.

INDIA OFFICE,

No. 61.

*London, 9th March 1865.*

*To His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have considered in Council the correspondence regarding the grant of leave to Europe to Officers of the British Service holding staff appointments in India, forwarded with paragraph 9 of your letter No. 462, dated the 21st December 1864.

2. In reply to an enquiry made by His Excellency the Commander-in-Chief, you have informed His Excellency that, as all Officers, whether of the British or Indian Service, holding staff appointments in India, and retaining these appointments whilst on leave to Europe, must obtain such leave from the Government in Government General Orders, it appears to the Governor General in Council desirable that they should obtain leave under the same terms and for such periods as may be fixed by the Medical Committee in accordance with the rules laid down in the New Furlough Regulations, and that British Officers proceeding to England as Staff Officers, with retention of appointment, should appear, therefore, before the same Board as Indian Officers similarly situated, viz., the Army Medical Board at the Presidency.

3. I approve of this decision which has been communicated to His Royal Highness the Field Marshal Commanding-in-Chief, with the suggestion that all such Officers desirous of obtaining extension of leave in England, with retention of appointment to the full extent allowed by the New Furlough Regulations, should make their application to this Office.

4. His Royal Highness has expressed his concurrence in this arrangement.

I have, &c.,

(Sd.) C. Wood.

No. 388 of 1865.—The following Military letter from the Right Hon'ble the Secretary of State for India, No. 69, dated 9th March 1865, is published for general information:—

MILITARY.

INDIA OFFICE,

No. 69.

*London, 9th March 1865.*

*His Excellency the Right Hon'ble the Governor General of India in Council.*

SIR,—I have considered in Council your Military letter No. 37, dated 21st January 1865, recommending, with reference to my despatch No. 266 of the 26th August 1864, that the rule hitherto in force in Bengal, by which Officers serving in the Ordnance Department are granted Regimental allowances at the field rate, wherever stationed, may be extended to the same class of Officers at Madras and Bombay, in which Presidencies Ordnance Officers now draw pay at full or half batta rates according to their location.

2. As these appointments may be considered in one sense as Regimental appointments, and as the distinction between half and full batta stations as affecting Regimental Officers as well as Non-Commissioned Officers and Soldiers has been recently abolished, I shall not object to the proposed rule with regard to the pay of Officers of the Ordnance Department.

3. This measure, as you observe, will place all on the same footing, the only exception being that of Ordnance Officers at the Presidency, who, like other Staff Officers similarly situated, draw Presidency rates of house-rent.

I have, &c.,

(Sd.) C. Wood.

No. 389 of 1865.—The under-mentioned Officers have reported their departure on the dates specified opposite to their respective names:—

Major J. S. Rawlins, of the Bengal Staff Corps, 2nd in Command, and Wing Officer, 1st Goorkha Regiment, on leave for twenty months, Government General Order No. 275 of the 16th March 1865.

Captain the Hon'ble W. M. Fraser, of the Bengal Staff Corps, District Superintendent of Police, North-Western Provinces, on leave for twenty months, Government General Order No. 273 of the 16th March 1865.

Captain A. Blunt, of the Bengal Staff Corps, on furlough for two years, Government General Order No. 255 of the 13th March 1865.

Captain J. B. Smyly, of the Bengal Staff Corps, Assistant Commissioner, Punjab, on leave for twenty months, Government General Order No. 297 of the 20th March 1865.

"Mooltan," 24th March 1865.



Captain R. M. Sewell, of the Bengal Staff Corps, District Superintendent of Police, Punjab, on leave for twenty months, Government General Order No. 266 of the 15th March 1865.

Surgeon W. G. W. Clemenger, A. B. and M. B., of the Medical Department, in medical charge of the 5th Goorkha Regiment, on leave for twenty months, Government General Order No. 295 of the 20th March 1865.

Lieutenant T. T. Oliphant, of the late 5th European Regiment, Doing-duty Officer, 1st Punjab Infantry, on leave for twenty months, Government General Order No. 295 of the 20th March 1865.

Lieutenant W. G. Chalmers, of the Bengal Staff Corps, Wing Officer, 23rd (Punjab) Regiment Native Infantry, on furlough for two years, Government General Order No. 285 of the 17th March 1865.

Lieutenant E. B. Ward, of the late 48th Regiment Native Infantry, District Superintendent of Police, Baraich, on leave for twenty months, Government General Order No. 297 of the 20th March 1865.

Assistant Surgeon L. H. J. Maclean, of the Medical Department, on furlough for three years, Government General Order No. 277 of the 16th March 1865.

Lieutenant Colonel T. F. Wilson, C. B., of the Bengal Staff Corps, Commandant, 7th Bengal Cavalry, on leave for twenty months, Government General Order No. 326 of the 28th March 1865.

Lieutenant W. Hampton, of the Invalid Establishment, on furlough for three years, Government General Order No. 219 of the 2nd March 1865.

Assistant Surgeon A. FitzGerald, of the Medical Department, on leave to the Neilgherry Hills for eight months, Government General Order No. 284 of the 17th March 1865.

Major James Edward Thomson, of the Bengal Staff Corps, on furlough for two years, Government General Order No. 281 of the 17th March 1865.

"Mooltan," 24th March 1865.

"Arabia," 3rd April 1865.

"Burmah," 5th April 1865.

Major Thomas Hardy Chamberlain, of the Bengal Staff Corps, City Magistrate, Lucknow, on leave for twenty months, Government General Order No. 344 of the 31st March 1865.

Lieutenant (Brevet Captain) George Vincent Fosbery, of the late 4th European Regiment, Adjutant, Calcutta Volunteer Rifle Corps, on leave for twenty months, Government General Order No. 326 of the 28th March 1865.

Surgeon Major Samuel Adamson Homan, of the Medical Department, on leave for twenty months, Government General Order No. 338 of the 31st March 1865.

"Burmah," 5th April 1865.

No. 390 of 1865.—The following promotion is made:—

*Clothing Department.*

Conductor W. Pritchard, Store-keeper, to be Deputy Assistant Commissary.

*The 13th April 1865.*

No. 391 of 1865.—The under-mentioned Officer is admitted to the Bengal Staff Corps, with effect from the date specified opposite to his name, subject to the confirmation of the Right Hon'ble the Secretary of State for India:—

2nd Captain Clement John Mead, of the Royal Artillery, } 7th November  
1st Class Executive Engineer, } 1864.  
Department Public Works.

No. 392 of 1865.—The services of the under-mentioned Officers are placed at the disposal of the Foreign Department:—

Lieutenant H. Gibson, of the Bombay Staff Corps.

Lieutenant J. Ketchen, of the General List, Bombay Infantry.

No. 393 of 1865.—The Right Hon'ble the Governor General in Council is pleased to direct that the Troops composing the Dooar Field Force shall be formed into one Brigade, with effect from such date as may be ordered by His Excellency the Commander-in-Chief.

Brigadier General J. M. B. F. Tytler, C. B., is appointed to command the Dooar Field Force, and will have his Head Quarters ordinarily at Gowhatty.

Brigadier General H. Tombs, C. B., V. C., will revert to the command of the Gwalior District.

No. 394 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointment:—

*PUNJAB IRREGULAR FORCE.*

*3rd Infantry.*

Lieutenant G. N. Saunders, of the late 24th Regiment Native Infantry, to officiate as Wing Officer, during the absence of Lieutenant Money, or until further orders.



No. 395 of 1865.—The following alterations of rank are made subject to Her Majesty's approval :—

## ALTERATIONS OF RANK.

Corps.	Rank and Name.	To rank from	In whose room.
General List, Cavalry.	Lieutenant Silas Adair Swinley ...	30th July 1862	Lieutenant G. W. C. Plowden, 21st Hussars, promoted in Cadre of late 3rd European Light Cavalry.
	Lieutenant Charles Bell Horsbrugh ...	*15th Aug. "	Lieutenant J. C. Lockwood, 20th Hussars, promoted in Cadre of late 2nd European Light Cavalry.
	Lieutenant William Gibson Craig ...	*4th Oct. "	Lieutenant J. Biddulph, Cadre of late 5th European Light Cavalry, transferred to the 19th Hussars.
	Lieutenant Richard Bernard Lockwood ...	*4th Dec. "	Lieutenant A. Hearsay, (deceased) Cadre of late 5th European Light Cavalry, transferred to the 19th Hussars.
	Lieutenant Robert Bartholomew ...	*20th Feb. 1863	Lieutenant H. M. Caulfield, (deceased), promoted in Cadre of late 4th European Light Cavalry.
General List, Infantry.	Lieutenant Arthur Benjamin Clare ...	*26th Oct. 1852	Lieutenant C. Middlemass, General List, Infantry, transferred to the 107th Foot.
	Lieutenant George Campbell Napier ...	*4th Nov. "	Lieutenant C. W. Biggs, General List, Infantry, transferred to the 101st Foot.
	Lieutenant Wm. Hope Meiklejohn ...	*4th Dec. "	Lieutenant J. H. Campbell, General List, Infantry, transferred to the 109th Foot.
	Lieutenant Alexander Jeffery Nicholson ...	*2nd Jan. 1863	Lieutenant H. F. Showers, General List, Infantry, transferred to the 104th Foot.
	Lieutenant Archibald Cuthbert Bigg Wither... ..	*2nd " "	Lieutenant C. Pakenham, General List, Infantry, transferred to the 101st Foot.
	Lieutenant Henry John Lawrence ...	*4th " "	Lieutenant J. R. E. J. Royle, General List, Infantry, transferred to the 107th Foot.
	Lieutenant William Loch ...	*4th " "	Lieutenant A. G. Remington, Cadre of late 12th Native Infantry, promoted.
	Lieutenant Richmond Shakespear ...	*4th " "	Lieutenant C. Pigon, Cadre of the late 4th European Regiment, transferred to the 104th Foot.
	Lieutenant Binfield Wemyss ...	*20th " "	Lieutenant J. S. Bagshaw, Cadre of late 5th European Regiment, transferred to the 101st Foot.
	Lieutenant Robert William Napier ...	*20th " "	Lieutenant F. Henderson, Cadre of the late 16th Native Infantry, transferred to the 107th Foot.
	Lieutenant Frederick Mills Malet Harris ...	*20th " "	Lieutenant G. S. Dysart, Cadre of the late 23rd Native Infantry, transferred to the 107th Foot.
	Lieutenant J. G. G. Shaw, (Resigned) ...	*4th Feb. "	Lieutenant C. M. Boswell, Cadre of the late 23rd Native Infantry, transferred to the 104th Foot.
	Lieutenant Allan Scott Roberts ...	*20th " "	Lieutenant T. H. Lewin, Cadre of the late 31st Native Infantry, transferred to the 104th Foot.
	Lieutenant Stephen Hotham ...	*1st March "	Lieutenant C. K. Mylne, Cadre of the late 35th Native Infantry, transferred to the 104th Foot.
	Lieutenant E. H. C. Plowden, (Resigned) ...	*4th " "	Lieutenant C. P. Chambers, Cadre of the late 48th Native Infantry, transferred to the 107th Foot.
	Lieutenant Howard Kingscote ...	*4th " "	Lieutenant W. Owen, Cadre of the late 61st Native Infantry, transferred to the 107th Foot.
	Lieutenant A. D. Strettell (now of the 109th Foot)	*4th " "	Lieutenant C. O. Bowles, General List, Infantry, resigned.

\* The dates on which they respectively completed one year's service, as required by Government General Order No. 214 of 1861.

The promotions of the under-mentioned Officers announced in Government General Order No. 868 of 1864, are hereby cancelled under the operation of paragraph 55 of Government General Order No. 632 of the 4th August 1864:—

## PROMOTIONS.

Corps.	Rank and Name.	To what rank promoted.	From what Date.
General List, Cavalry.	Cornet Elliot Alexander Money, (now of 19th Hussars) ...	Lieutenant	30th July 1862.
	Cornet Thomas Shepherd, (now of 20th Hussars) ...	Ditto	Ditto.
	Cornet G. R. J. Shakespear, (now of 20th Hussars) ...	Ditto	Ditto.
	Cornet Joseph Boulderson, (now of 19th Hussars) ...	Ditto	Ditto.
	Cornet F. Henry Huth, (now of 19th Hussars) ...	Ditto	6th July 1863.
	Cornet A. W. G. Brebner, (now of 20th Hussars) ...	Ditto	24th Mar. "
	Cornet C. R. St. Quintin, (now of 19th Hussars) ...	Ditto	Ditto.
	Cornet W. A. Lawrence, (now of 21st Hussars) ...	Ditto	23rd Apl. 1863.
	Cornet Cecil Mangles, (now of 20th Hussars) ...	Ditto	18th Sept. "
	Cornet Charles R. Chase, (now of 21st Hussars) ...	Ditto	17th Nov. "
	Cornet F. D. Harding, (now of 19th Hussars) ...	Ditto	Ditto.
	Cornet E. S. Neave, (now of 21st Hussars) ...	Ditto	Ditto.
	Cornet C. Bailey, (now of 20th Hussars) ...	Ditto	28th Nov. 1863.
	Cornet S. D. Barrow, (now of 19th Hussars) ...	Ditto	2nd July 1864.
	Ensign H. P. Airey, (now of 101st Foot) ...	Ditto	30th July 1862.
	Ensign Arthur Peel, (transferred to 101st Foot, now of 7th Hussars) ...	Ditto	Ditto.
	Ensign W. H. Hyne, (now of the 107th Foot) ...	Ditto	Ditto.
	Ensign B. C. Richardson, (now the of 104th Foot) ...	Ditto	Ditto.
	Ensign V. C. E. Parker (now of the 104th Foot) ...	Ditto	Ditto.
	Ensign M. F. Stokes, (now of the 104th Foot) ...	Ditto	Ditto.
	Ensign F. O. Fuller, (now of the 101st Foot) ...	Ditto	Ditto.
	Ensign R. H. A. Quinet (now of the 101st Foot) ...	Ditto	Ditto.
	Ensign E. A. Down, (now of the 107th Foot) ...	Ditto	Ditto.
	Ensign G. S. Sewell, (now of the 101st Foot) ...	Ditto	Ditto.
	Ensign H. Bailey, (now of the 106th Foot) ...	Ditto	2nd Oct. 1862.
	Ensign W. H. Browne, (now of the 101st Foot) ...	Ditto	20th " "
	Ensign H. J. Woodward, (now of the 104th Foot) ...	Ditto	Ditto.
	Ensign W. G. Beresford, (now of the 107th Foot) ...	Ditto	26th Oct. 1862.
	Ensign B. Hudleston, (now of the 104th Foot) ...	Ditto	4th Dec. "
	Ensign A. J. Shepherd, (transferred to the 107th Foot, now of 93rd Regt.)	Ditto	20th " "
	Ensign R. T. Mayne, (now of the 109th Foot) ...	Ditto	2nd Jan. 1863.
	Ensign E. L. Clarke, (now of the 103rd Foot) ...	Ditto	27th " "
	Ensign C. M. Stockley, (now of the 101st Foot) ...	Ditto	25th Feb. "

No. 396 of 1865.—The under-mentioned Soldier is admitted to pension as specified opposite to his name:—

Gunner John Sadler, of A Battery, F Brigade, Royal Horse Artillery. } 1s. (one shilling) per diem, payable in Europe.

No. 397 of 1865.—With reference to General Order of the 20th December 1822, the following Statement of Deposits in the Presidency Pay Office, on account of Estates of deceased Native Commissioned and Non-Commissioned Officers and Privates of the Indian Military Forces of Her Majesty, is published for the information of the Army:—

*Statement of Sums deposited in the Presidency Pay Office on account of the Estates of deceased Native Officers and Men, from January to December 1864, and remaining unpaid.*

No. and Date of Letters with which received.	Date of Deposit.	From whom Received.	Names of the Parties.	Rank and Corps.	Amount Deposited.	Amount Paid.	Amount remaining Unpaid.
No. 2 dated 2nd January 1864.	Jan. 11, 1864	Major H. B. Stevens, Comdg. 12th Kilat-i-Ghilzie Regiment	Gyan Sing Elahree Bhuksh Prang Sing Mahawul Sing Lalloo Doobay Onsan Sing Ramdeen Shaick Fyzuldeen Shaick Mudarie Ramjann Khan	Sepoy, 8th Co., Kilat-i-Ghilzie Regt. " 5th " " 7th " Naick, 3rd " " 3rd " Sepoy, 6th " " 4th " " 2nd " Drummer, 7th " Sepoy, 5th "	Rs. A. P. 134 10 1 87 8 7 22 8 5 108 11 7 30 4 5 7 1 10 51 13 6 3 4 7 5 6 0 4 4 6	Rs. A. P. ..... ..... 108 11 7 ..... ..... ..... ..... ..... ..... .....	Rs. A. P. 134 10 1 87 8 7 22 8 5 ..... 30 4 5 7 1 10 51 13 6 3 4 7 5 6 0 4 4 6
Statement dated 8th January 1864.	Ditto	Capt. H. N. Hodgson, Comdg. 31st Regt. P. N. I.	Mannah Deywah Sing	5th " 31st Regt. P. N. I. 5th " "	40 14 7 5 9 9	..... .....	40 14 7 5 9 9
No. 1, dated 11th January 1864.	Jan. 20, 1864	Lieut. Col. Liptrott, Comdg. 4th Regt. N. I.	Ruggonoth	No. 5, 4th Regt. N. I.	14 0 11	.....	14 0 11
Statement dated 1st January 1864.	Jan. 25, 1864	Major H. Boisragon, Comdg. 4th Regt. S. Infy.	Bhugwandeen Pandey Punjab Sing Monohur Sing	8th Co., 4th Regt. S. I. Jemadar, 3rd Regt. S. I. Sepoy, 3rd "	28 10 4 202 14 1 15 7 8	26 10 4 202 14 1 .....	..... ..... 15 7 8
No. 23, dated 20th January 1864.	Feb. 6, 1864	Capt. T. Quin, Comdg. 1st Regt., Sikh Regt.	Issurree Sing Fuzullah Nunda Ramdass Doolun Buchoo	Havildar, 7th Co., 1st Regt. S. I. Sepoy, 8th " Barber, 7th " Langree, 6th " Barber, 8th " Dooly Bearer, 8th Co., "	53 12 3 18 9 2 6 3 0 53 9 10 66 5 3 7 11 0	..... ..... ..... ..... ..... .....	53 12 3 18 9 2 6 3 0 53 9 10 66 5 3 7 11 0
No. 27, dated 30th January 1864.	Ditto	Major R. Larkins, Comdg. 18th Regt. N. I.	Jeet Sing Ramdeen Raoot Gujadur Dooby Gunness Mhatoo Sensurn Mhatoo Bimohun Sing Khyallee Khaw	Sepoy, 18th Alipore Regt. " 18th " " 18th " " 18th " " 18th " " 18th " " 18th "	28 10 10 67 13 0 86 6 1 37 6 5 11 12 7 39 15 3 30 12 1	..... ..... ..... ..... ..... ..... .....	28 10 10 67 13 0 86 6 1 37 6 5 11 12 7 39 15 3 30 12 1



## Statement of Sums deposited in the Presidency Pay Office, &amp;c.,—continued.

No. and Date of Letters with which received.	Date of Deposit.	From whom Received.	Names of the Parties.	Rank and Corps.	Amount Deposited.	Amount Paid.	Amount remaining Unpaid.
No. 27, dated 30th January 1864	Feb. 6, 1864	Major R. Larkins, Comdg. 18th Regt. N. I.	{ Rugbeer Roy Sheikh Husnoo Sheikh Boodhoo Sheikh Baker Allee Wahid Allee Khan Ramtoohul Sing Nabbee Bux	Sepoy, 18th Alipore Regt. " 18th " " 18th " " 18th " " 18th " " 18th " Havildar, 15th Loodianah Regt. N. I.	Rs. A. P. ..... ..... ..... ..... ..... ..... .....	Rs. A. P. 48 2 8 22 1 5 34 1 6 138 7 4 49 9 5 6 3 8 27 6 0	
No. 14, dated 26th January 1864	Feb. 10, 1864	Capt. R. Barter, Comdg. 15th Regt. N. I.	Nabbee Bux	Havildar, 15th Loodianah Regt. N. I.	Rs. A. P. .....	.....	27 6 0
No. 2, dated 15th January 1864	Ditto	Lieut. Col. Fisher, Comdg. 5th Regt. N. I.	{ Davie Dean Narain Tewary Shumshere Khan Gungah Ramburn Sing Kumaldeen	Jemadar, 5th Regt. N. I. " " " " " " " " " " " 4th Co., 29th P. N. I.	..... ..... ..... ..... ..... ..... .....	44 10 4 13 9 4 1 8 0 18 0 0 20 12 1 13 6 10	
No. 3, dated 8th February 1864	Feb. 17, 1864	Major W. H. Gordon, Comdg. 29th P. N. I.	Kumaldeen	" 4th Co., 29th P. N. I.	Rs. A. P. .....	.....	13 6 10
No. 54, dated 16th February 1864	Feb. 25, 1864	Major H. S. Obbard, Comdg. 41st Regt. N. I.	{ Rusakee Nuthoo Narain Ruheen Bux	" 7th " 41st Regt. N. I. " 8th " " 3rd " " 2nd " " 1st Regt. N. I.	..... ..... ..... ..... .....	..... ..... ..... ..... .....	0 13 0 14 12 0 35 11 9 1 11 3 14 10 0
No. 4, dated 24th February 1864	Mar. 5, 1864	Lieut. Col. H. Milne, Comdg. 1st Regt. N. I.	Deenbund Oppudeah	" 1st Regt. N. I.	Rs. A. P. .....	.....	14 10 0
No. 16, dated 17th February 1864	Ditto	Col. C. Prior, Comdg. 1st Goorkha Regt. L. I.	{ Dhun Sing Thappa Rutteeram Ghintee	" 6th Co., 1st Goorkha Regt. L. I. " 6th "	20 5 7 19 2 0	..... .....	20 5 7 19 2 0
No. 2, dated 11th February 1864	Mar. 21, 1864	Officer Comdg. Right Wing, 43rd Regt. N. I.	{ Ramkurn Sunthram Pestambar Sing Singbeer	" 4th " Right Wing, 43rd Regt. N. I. " 4th " " 4th " " 4th "	40 15 9 24 14 3 28 8 3 36 10 9	..... ..... ..... .....	40 15 9 24 14 3 28 8 3 36 10 9
No. 3, dated 10th February 1864	Ditto	Officer Comdg. Left Wing, 43rd Regt. N. I.	{ Jectman Roy Bhuckutjong Rana Goodab	" 5th " Left Wing " 6th " Dandee of the Boat Establ.	7 0 0 38 12 6 29 4 1	..... ..... .....	7 0 0 38 12 6 29 4 1
No. 18, dated 21st January 1864	Mar. 23, 1864	Major H. Forbes, Comdg. Bhopal Levy.	{ Drigpaal Sing Damooder	Sepoy, Bhopal Levy. " "	7 8 8 23 15 7	..... .....	7 8 8 23 15 7

No. 68, dated 21st March 1864	Mar. 30, 1864 ...	Col. Prior, Comdg. 1st Georkha Regt.	... 
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Statement of Sums deposited in the Presidency Pay Office, &c.,—continued.

No. and Date of Letters with which received.	Date of Deposit.	From whom Received.	Names of the Parties.	Rank and Corps.	Amount Deposited.	Amount Paid.	Amount remaining Unpaid.			
No. 90, dated 20th April 1864.	May 7, 1864	Lient. Col. R. Renny, Comdg. 3rd Sikh Infy.	<div><div>Bolakie</div><div>Odeen Khan</div><div>Heat Khan</div><div>Iwah Sing</div><div>Hossein Bax</div><div>Buddun Sing</div><div>Sonak Sing</div><div>Burceam Sing</div><div>Jusseah Sing</div></div>	<div><div>Naick.</div><div>Sepoy.</div><div>5th</div><div>5th</div><div>Langree, 8th</div><div>Sepoy.</div><div>Rifle</div><div>6th</div><div>5th</div><div>Havildar, 4th</div></div>	<div><div>5th Co., 3rd Sikh Infy.</div><div>"</div><div>"</div><div>"</div><div>"</div><div>"</div><div>"</div><div>"</div><div>"</div><div>"</div></div>	Rs. 36 6 4 7 4 5 36 0 1 1 11 0 10 6 7 35 7 9 20 3 9 40 13 4 17 9 9	Rs. A. P.	Rs. A. P.		
No. 133, dated 13th May 1864.	May 19, 1864	Capt. F. R. Butt, Comdg. C. By., 19th Brigade R. A.	Peer Khan	Private, C. By., 19th Brigade R. A.	65 12 10	.....	65 12 10			
No. 24, dated 25th May 1864.	June 3, 1864	Lient. Col. W. Richardson, Comdg. 41st Regt N. I.	<div><div>Underbeer Thappa</div><div>Aproop Sing</div><div>Soorbeer Lamah</div><div>Kurbeer Groom</div><div>Seorth Sing</div><div>Bassoo Thappa</div><div>Rajdul Rye</div><div>Sutroop Soomowur</div><div>Chunderbeer Thappa</div><div>Singbeer Josee</div><div>Singbeer Lamah</div><div>Handess Nugger Kotee</div><div>Chumput Sing</div><div>Futty beer Rye</div><div>Chunderbeer</div><div>Rui Sing</div><div>Ummur Sing</div><div>Karbeer Thappa</div><div>Rajbura Ramah</div><div>Thavau Sing Ranah</div><div>Sen Ram Kumee</div><div>Dingamul Takeoor</div><div>Kahadoor Rye</div><div>Hurk Beer Ram</div></div>	<div><div>Sepoy, 1st Co., 44th Regt. N. I.</div><div>1st</div><div>1st</div><div>2nd</div><div>2nd</div><div>3rd</div><div>4th</div><div>4th</div><div>6th</div><div>6th</div><div>6th</div><div>6th</div><div>6th</div><div>7th</div><div>8th</div><div>9th</div><div>10th</div><div>10th</div><div>10th</div><div>11th</div><div>11th</div><div>11th</div></div>	<div><div>5</div><div>0</div><div>10</div><div>8</div><div>6</div><div>1</div><div>1</div><div>8</div><div>7</div><div>11</div><div>11</div><div>11</div><div>11</div><div>0</div><div>9</div><div>1</div><div>11</div><div>6</div><div>9</div><div>2</div><div>2</div><div>1</div><div>0</div></div>	<div><div>26</div><div>45</div><div>20</div><div>25</div><div>87</div><div>19</div><div>9</div><div>16</div><div>84</div><div>7</div><div>15</div><div>15</div><div>23</div><div>30</div><div>23</div><div>54</div><div>5</div><div>21</div><div>24</div><div>12</div><div>2</div><div>2</div><div>3</div><div>10</div></div>	<div><div>9</div><div>7</div><div>2</div><div>2</div><div>0</div><div>0</div><div>6</div><div>3</div><div>6</div><div>15</div><div>15</div><div>3</div><div>15</div><div>10</div><div>9</div><div>7</div><div>14</div><div>5</div><div>9</div><div>4</div><div>7</div><div>5</div><div>4</div><div>0</div></div>	<div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div></div>	<div><div>26</div><div>45</div><div>20</div><div>25</div><div>87</div><div>19</div><div>9</div><div>16</div><div>84</div><div>7</div><div>15</div><div>15</div><div>23</div><div>30</div><div>23</div><div>54</div><div>5</div><div>21</div><div>24</div><div>12</div><div>2</div><div>2</div><div>3</div><div>10</div></div>	<div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div><div>.....</div></div>
No. 270, dated 31st May 1864.	June 8, 1864	Major W. J. F. Stanford, Comdg. 22nd P. Regt N. I.	<div><div>Jewan</div><div>..... Sing</div><div>.....</div><div>Shack Kulloo</div></div>	<div><div>1st Co., 22nd P. Regt N. I.</div><div>2nd</div><div>6th</div><div>8th</div></div>	<div><div>32</div><div>10</div><div>66</div><div>135</div></div>	<div><div>4</div><div>12</div><div>6</div><div>0</div></div>	<div><div>4</div><div>12</div><div>6</div><div>0</div></div>			



167, dated 8th June 1864.	June 8, 1864	Lieut. Col. J. T. Shakespear, Comdg. 8th Regt. N. I.	{ Parson Opadia Itapbunsee Thakoor Sing Omrao Sing Hidoll Sing Shaick Kurimbux Kalka Opadia	... ... ... ... ... ... ...	Jemadar, 8th Regt. N. I. Sepoy, 8th " 8th " 8th " 8th " 8th	... ... ... ... ... ... ...	281 3 0 39 0 0 17 8 0 16 8 11 18 7 6 12 0 11 12 3 4	281 3 0 39 0 0 17 8 0 16 8 11 18 7 6 12 0 11 12 3 4
Statement dated 1st June 1864.	June 14, 1864	Col. Mulcaiter, Comdg. 5th Bengal Cavalry.	{ Dirigpaul Sing Thakoor Sing Matapalt Dookce Kulledeen Persaud Syce of Matapalt Syce Dooman of Daffr. Enam Buksh Syce Subroo of Resuldar Hemuet Allie	... ... ... ... ... ... ... ... ... ... ...	Sower, 5th Bengal Cavalry " 5th " 5th Syce, 5th " 5th " 5th " 5th " 5th " 5th	... ... ... ... ... ... ... ... ... ... ...	311 6 6 28 3 3 67 3 3 41 6 0 16 9 9 33 15 0 1 4 3 4 10 2 4 8 0	311 6 6 28 3 3 67 3 3 41 6 0 16 9 9 33 15 0 1 4 3 4 10 2 4 8 0
No. 339, dated 27th June 1864.	July 8, 1864	Major W. J. F. Stafford, Comdg. 22nd Regt. P. N. I.	Imam Buksh	...	Sepoy, 4th Co., 22nd Regt. N. I.	...	15 1 1	15 1 1
No. 77, dated 27th June 1864.	Ditto	Capt. J. J. Tytler, Comdg. 4th Goorkha Regt.	{ Kurnbeer Thappa Beebhan Thappa Sobhan Ghirtee Kalloo Gooring Kutnabeer Thappa	...	Sepoy, No. 1, 4th Goorkha Regt. " No. 1 " No. 2 " No. 1 " No. 1	...	29 8 8 26 5 1 19 8 9 29 10 9 25 8 10	29 8 8 26 5 1 19 8 9 29 10 9 25 8 10
No. 196, dated 8th July 1864.	July 13, 1864	Lieut. Col. Shakespear, Comdg. 8th Regt. N. I.	{ Girwin Girdhary Sing Seetul Sing Ramsurn Randeem Sewpursad Sing Gooman Sing Unnawrar Pandy Bisundial Sing Shaick Ajeemoola	...	Sepoy, 8th Regt. N. I. " 8th " 8th " 8th " 8th " 8th " 8th " 8th Bhistie, 8th	...	33 13 7 62 4 8 1 4 11 14 5 8 37 4 6 76 10 5 83 12 7 8 8 11 9 15 0 6 5 7	33 13 7 62 4 8 1 4 11 14 5 8 37 4 6 76 10 5 83 12 7 8 8 11 9 15 0 6 5 7
No. 91, dated 12th July 1864.	July 21, 1864	Capt. A. Tytler, Comdg. 4th Goorkhas.	{ Bhudrabeer Khuttree Bagmull Bhundarie Lachmun Ghirtee	...	Sepoy, 7th Co., 4th Goorkha Regt. " 8th " 8th	...	11 14 8 22 9 3 24 15 9	11 14 8 22 9 3 24 15 9
No. 388, dated 25th July 1864.	Aug. 1, 1864	Major W. J. F. Stafford, Comdg. 22nd P. Regt. N. I.	Ilalhee Buksh	...	Bhistie, 2nd Co., 22nd Regt. N. I.	...	324 0 4	324 0 4

## Statement of Sums deposited in the Presidency Pay Office, &amp;c.,—continued.

No. and Date of Letters with which received.	Date of Deposit.	From whom Received.	Names of the Parties.	Rank and Corps.	Amount Deposited.	Amount Paid.	Amount remaining Unpaid.
No. 106, dated 5th August 1864.	Aug. 16, 1864 ...	Major R. L. Germon, Comdg. 16th Lucknow Regt.	{ Bhowaneebur Sing Dewraj Gajadhar Sing Dhoomun Khan Mihirwan Sing Moonah Bahadur Sing Munraj Khan Sewmudun Sing Ram Churn Tewary Ramdeen Tewary	Sepoy, 1st Co., Regt. of Lucknow, 16th N. I. " 4th " " 5th " " 5th " " 8th " " 4th " " 6th " " 5th " " 7th " " 2nd " " 6th "	Rs. A. P. 13 4 6 49 10 9 5 1 6 12 5 0 31 4 0 24 6 3 3 1 9 10 3 6 8 9 3 8 4 9 8 13 0	Rs. A. P. ..... ..... ..... ..... ..... ..... ..... ..... ..... ..... .....	Rs. A. P. 13 4 6 49 10 9 5 1 6 12 5 0 31 4 0 24 6 3 3 1 9 10 3 6 8 9 3 8 4 9 8 13 0
List dated 6th August 1864.	Aug. 17, 1864 ...	Major Gascoigne, Comdg. 2nd Regt. Sikh Infy.	{ Jowahir Meda Cheta Kadir Ramsahai Mosoo	Sangry, 2nd Regt. S. I. Syce, 2nd " " 2nd " Surwan, 2nd " Sepoy, 4th Co., 2nd Regt. S. I. " 4th "	Rs. A. P. 10 2 0 10 2 1 9 13 2 5 0 0 15 0 9 22 10 1	Rs. A. P. ..... ..... ..... ..... ..... .....	Rs. A. P. 10 2 0 10 2 1 9 13 2 5 0 0 15 0 9 22 10 1
No. 81, dated 13th August 1864.	Aug. 23, 1864 ...	Lieut. Fredck. E. Lewis, Offg. Comdt., No. 1, P. L. Field Battery	{ Sohora Husoo Boota Perawtee Futtoo Sunai Rutta	Syce, No. 1, Punjab Lt. Fd. By. " No. 1 " " No. 1 " Jorawalla, G. C., No. 1 Punjab Lt. Fd. By. " No. 1 " Single, No. 1 Punjab Lt. Fd. By. Bhatie, No. 1 "	Rs. A. P. 2 14 6 3 13 9 6 4 10 6 14 5 0 11 8 7 11 2 6 9 6	Rs. A. P. ..... ..... ..... ..... ..... ..... .....	Rs. A. P. 2 14 6 3 13 9 6 4 10 6 14 5 0 11 8 7 11 2 6 9 6
No. 237, dated 10th September 1864.	Sept. 13, 1864 ...	Capt. Glasse, Comdg. 21st Regt. N. I.	{ Purbatee Atar Sing	Sepoy, 6th Co., 21st Regt. P. N. I. " 8th "	Rs. A. P. 65 10 0 27 3 1	Rs. A. P. ..... .....	Rs. A. P. 65 10 0 27 3 1
No. 28, dated 12th September 1864.	Oct. 19, 1864 ...	Lieut. H. C. Jarrett, Comdg. Left Wing, 28th Regt. P. I.	{ Sheikh Deena Faujdera Mungoo	Sepoy, 5th " 28th Regt. P. I. " Lt. " " " " Bhatie, " "	Rs. A. P. 10 2 11 16 14 8 30 4 4	Rs. A. P. ..... ..... ..... .....	Rs. A. P. 10 2 11 16 14 8 30 4 4
No. 47, dated 14th October 1864.	Oct. 21, 1864 ...	Ditto.	Uttar Sing	Sepoy, 7th Co., 28th Regt. P. I.	Rs. A. P. 83 15 0	Rs. A. P. .....	Rs. A. P. 83 15 0
No. 253, dated 25th October 1864.	Nov. 4, 1864 ...	Col. W. F. Nuthall, Comdg. 3rd Regt. N. I.	{ Shauk Mahomed Ally Sirdar Khan Hussun Mahomed Khan	Naick, 2nd Co., 3rd Regt. N. I. Sepoy, 3rd " " 3rd "	Rs. A. P. 8 6 0 26 5 2 4 1 7	Rs. A. P. ..... ..... .....	Rs. A. P. 8 6 0 26 5 2 4 1 7





Corporal W. Ramsden, Central Provinces.

" T. Rooney, Mysore.

" A. Scott, Central Provinces.

" J. F. Slade, Hyderabad.\*

" J. Telford, Coorg.

" J. Thomas, Rajpootana.\*

" C. Wells, Central Provinces.

" R. Walkinshaw, Central Provinces.

" T. Walton, Central Provinces—(Temporary).

Gunner C. Munro, Central Provinces.\*

" W. H. Nicol, Oudh.\*

" T. W. Smith, British Burmah.\*

" J. Southon, Oudh.\*

Private J. Jennings, Central Provinces.

" J. McCawley, ditto.

" J. McEwen, ditto.\*

" J. Parrott, British Burmah.\*

" J. Paul, Central Provinces.\*

" W. Scott, Oudh.

" E. J. Tennant, British Burmah.\*

#### No. 133.

Mr. J. H. Wilson, Executive Engineer, 4th Grade, Central Provinces, passed the examination in Hindoostance on the 26th January 1865.

#### No. 134.

*Erratum.*—In Notification No. 307 of 21st December 1864, read 15th July 1864 in lieu of 22nd October 1864.

#### No. 135.

*The 10th April 1865.*

*Erratum.*—In the portion of Notification No. 100, dated the 22nd March 1865, cancelling the transfer of Captain F. G. S. Parker, for the words "from the Punjab to Hyderabad," read from North-Western Provinces to Hyderabad.

#### No. 136.

*The 11th April 1865.*

Mr. W. H. Pigott, Accountant, 2nd grade, Central Provinces, is granted two months' leave of absence on medical certificate, in addition to the six months granted him in Public Works Notification No. 307 of 10th November 1864.

#### No. 137.

Captain D. Ward, Executive Engineer, 3rd grade, Officiating Executive Engineer of the Lucknow Division, is confirmed in that appointment from the 1st March 1865.

#### No. 138.

The two under-mentioned Officers of the Public Works Department have been granted, by the Right Hon'ble the Secretary of State for India, extension of leave on medical certificate for the periods specified against their names:—

Mr. C. C. Anderson	6 months.
" J. D. Smith	6 "

\* These Subordinates are to be considered on probation under the rules hitherto applicable to Probationary Assistant Overseers.

#### No. 139.

Deputy Commissary J. Brooke, having been admitted to pension from the 31st March 1865, his name is, at his own request, struck off the Rolls of the Public Works Establishment.

#### No. 140.

*The 12th April 1865.*

Mr. J. W. Henry, Assistant Engineer, 1st grade, Central Provinces, is transferred to Rajpootana.

#### No. 141.

Mr. J. M. Span is appointed to the Public Works Department as an Assistant Engineer, 1st grade, and posted to the Central Provinces.

C. H. DICKENS, Lieut. Colonel, R. A.,  
Secy. to the Govt. of India

#### No. 142.

*The 13th April 1865.*

*Erratum.*—In Notification No. 115 of the 28th ultimo, granting three months' privilege leave to Major R. H. Sankey, R. E., Executive Engineer, 1st Class, and Assistant to Chief Engineer, Mysore, for "24th March 1865," read 23rd March 1865.

#### No. 143.

In continuation of Notification No. 71, dated 1st March, the special work on which Captain R. B. Pemberton, R. E., is engaged being so far completed that he can discharge his proper duties as Assistant Secretary to the Government of India, in the Public Works Department, the services of Captain W. Jeffreys, R. E., are no longer required in the Secretariat. His services are therefore replaced at the disposal of the Government North-Western Provinces, with effect from the 18th April 1865.

#### No. 6.

##### REVENUE FORESTS.

Leave of absence for twelve months on medical certificate is granted to Mr. D. Brandis, Inspector General of Forests to the Government of India. During the absence of Mr. Brandis, or until further notice, Captain Williams, R. E., Under Secretary to the Government of India, in the Public Works Department, will take charge of the Office of Inspector General of Forests.

A. B. SAMPSON,

Asst. Secy., for Secy. to the Govt. of India.

## ADVERTISEMENTS.

### NOTICE.

Required for the Akyab Treasury Department a Head Clerk, salary, Rs. 200 per mensem. None need apply who have not good testimonials, both of their ability to fulfil the duties of the Office and general good character.

AKYAB,  
DEPY. COMMR.'S OFFICE; } E. J. SPILSBURY.  
The 25th March 1865. } Depy. Commr.

*Statement of Government Promissory Notes enfaced for Payment of Interest in London, showing the total Amount outstanding according to the Registers received in this Office up to 7th April 1865.*

	4 per cent. of 1824-25.	4 per cent. of 1828-29.	4 per cent. of 1832-33.	4 per cent. of 1835-36.	4 per cent. of 1842-43.	4 per cent. of 1854-55.	5 per cent. Public Works of 1854-55.	5 per cent. of 1856-57.	5½ per cent. of 1859-60.	3½ per cent. of 1853-54.	4½ per cent. of 1856-57.	Total Rs.
Amount brought forward from Statement dated 27th March 1865	53,000	300	25,55,000	23,12,000	96,18,500	66,66,600	33,13,200	4,82,67,100	2,43,78,600	17,600	16,000	9,71,97,900
ADD— Amount enfaced at Madras, as per Registers received up to date...	...	...	...	...	...	...	...	...	...	...	...	...
Amount enfaced at Bombay, as per ditto ditto ditto	...	...	...	...	...	...	...	81,000	...	...	...	81,000
Amount enfaced at Calcutta up to date	...	...	6,000	...	4,200	1,600	10,600	1,04,300	5,65,700	...	...	6,92,400
Total	53,000	300	25,61,000	23,12,000	96,22,700	66,68,200	33,23,800	4,84,52,400	2,49,44,300	17,600	16,000	9,79,71,800
DEDUCT— Amount removed from the Lon- don Books, as per Registers received up to date	...	...	43,500	...	500	...	2,000	3,500	...	...	...	49,500
Total	53,000	300	25,17,500	23,12,000	96,22,200	66,68,200	33,21,800	4,84,48,900	2,49,44,300	17,600	16,000	9,79,21,800

FOR WILLIAM;  
LOAN OFFICE,  
The 12th April 1865.

R. P. HARRISON,  
Acctt. Genl. to the Govt. of India.

## DECLARATION.

Whereas it appears to His Excellency the Governor General in Council that land is required to be taken up at the public expense for a public purpose, viz., for encamping grounds on the road from Lucknow to Seetapore, it is hereby notified that land to the extent and at the places specified in statement appended is appropriated for the above purpose.

This declaration is made under Section 2, Act VI of 1857.

LUCKNOW,  
The 28th March 1865. }

W. D. BRUCE, C. E.,  
Asst. Secy. to the Chief Commr., Oudh, D. P. W.

Statement of Land required in the Seetapore District for public purposes, i. e., for Encamping Grounds on the Seetapore—Lucknow Road.

Name of Road.	Name of Encamping Ground.	Name of Village in which Land is required.	AREA IN ACRES.			REMARKS.
			Acres.	Roods.	Poles.	
	Jualpore	Jualpore	29	3	5	
		Shahpore	2	3	31	
		Krishnapore	...	...	11	
	Total area required for Jualpore		32	3	7	
	Bahadoorpore	Bahadoorpore	32	2	22	
		Sidhowly	...	...	25	
		Total area required for Bahadoorpore		32	3	
Grand Total		65	2	14		

COMMISSIONER'S OFFICE;  
KHYRABAD DIVISION,  
The 28th September 1864. }

(Signed)

E. THOMPSON,  
Offg. Commissioner.

## FOR SALE,

A COLLECTION of TREATIES, ENGAGEMENTS, and SUNNDS, relating to India and neighbouring countries, compiled by C. U. Aitchison, B. C. S., Under Secretary to the Government of India in the Foreign Department: Price, Five Rupees per volume.

VOLUME I.—Containing the Treaties, &c., relating to Bengal, Burmah, and the Eastern Archipelago. Super royal, 8vo. pp. 372, with three Maps.

VOLUME II.—Containing the Treaties, &c., relating to the North-Western Provinces, Oudh, Nepal, the Punjab, and the States on the Punjab Frontier. Super royal, 8vo. pp. 456, with two Maps.

VOLUME III.—Containing the Treaties, &c., relating to the Peishwa, Nagpoor, and Bundelcund. Super royal, 8vo. pp. 588.

VOLUME IV.—Containing Treaties, &c., relating to the States in Rajpootana, Central India, and Malwa.

VOLUME V.—Containing Treaties, &c., relating to Hyderabad, Mysore, and Coorg, the Madras Presidency, and Ceylon.

VOLUME VI.—Containing Treaties, &c., relating to the States within the Bombay Presidency.

## NOTICE.

Lost in transit by Post between Dumoh and Calcutta the 1st halves of Central Provinces Currency Notes, Nos. 60417 and 60418, for Rs. 20 each. Notice has been sent to the Offices of Issue at Nagpore and Calcutta.

## PRELIMINARY ANNOUNCEMENT.

## IMPORTANT INDIGO FACTORIES FOR SALE.

To be sold by Public Auction on or about the 20th instant (unless previously disposed of by private contract)—

By order of the Mortgagees,

The well-known Indigo Factories called the Allumehund Concern, at Allahabad, with valuable Talook property attached thereto and Koontes crop now in the ground;

also

The Koorsun Factory, Allahabad, with Koontes crop, both lately the property of N. Flouest, Esq., deceased. Further particulars and conditions of sale will be published, and in the mean while applications to be made to Messrs. W. Moran and Co., Old Mint Mart, Calcutta, and Messrs. Barrow, Sen, and Watson, Old Post Office Street, Calcutta.

वेवराअमानतपैयाप्रेसीडसीपेरेआफीसजमारहेमोतेसिपाहि किजवतकवारीस  
खडानहेये: इस्ततकजनवरीलगयेतदीस्मवरसन १० ६ साल

गोठकीतरी खनस्वर:	अमानत कीतारीख	जिसेसंपैयामीला	सिपाहिकानाम	पदमीअर्जिमेन्ट	अमान नरूपैया	संपैया दियागया	संपैयाजमे
तः माः			गीयानसिंह	सीपाही २ बी: जी: रेजीमेन्ट	१०४	११	१३४
			रेलाहिवकसे	॥	२७	११	२७
			परागसिंह	॥	२२	११	२२
			महालसिंह	मायेक	१०४	१०४	११
२ जनव सी	६४ ११जनव सी ६४	मेजरअचंकीइस्तीवेन्सकमानडी १२ खीलातीगीलजिर्जिमेन्ट	लालुदुवे ओमानसिंह	॥ सीपाही	७० ७	११ ११	७० ७
			रामदीन	॥	११	११	११
			सेखफेजुनदीन	॥	७	११	७
			सेखमदारी	उरामर	५	११	५
			रमजानखा	सीपाही	४	११	४
७	११	कपतामः रेव: रेनहाजसनकमान डिग ५१ रेजिमेन्ट बी: रेनआई:	माना देवासिंह	॥ ॥	२० ५	११ ११	२० ५
१ ११	२०	लफ्टनकरनल्लिपदेकमान: ४ रेजिमेन्ट रेनआई:	रधुनाथ	॥	१४	११	१४



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क्र.सं.	प्रमाणन की	विसे रुपैया मिला	सिपाही कानाम	पद की ओर रेजीमेंट	प्रमाणन रुपैया	रुपैया वीषागया	रुपैया ज
२०	२०	अरलेन ई. के कमान डिग	वलवान	वला ट पार वार्ड	२२४	२२८	२२४
२१	२१	२० वी डिग आर-ई.	हीसेन वकब	मईस-२०-रजी. आर-ई.	२४	२४	२४
२२	२२		अजीब कब	"	२२	२२	२२
२३	२३		भीषासी	"	२२	२२	२२
२४	२४		सीतल	"	२२	२२	२२
२५	२५		दीदी	"	२२	२२	२२
२६	२६		अधीयास	एक सारा नला सकार	२४	२४	२४
२७	२७		कालु	सिपाही २६-रजी. एन आइ	२६	२६	२६
२८	२८		देसी	हवानदार रलाई ट कुम्मेरी २० रेजी.	२४	२४	२४
२९	२९		सैधु डुमरा	सिपाही २-रेजी. पी आइ	२४	२४	२४
३०	३०		जवान धा	"	२४	२४	२४
३१	३१		अमीरा	सीड मेलर	२४	२४	२४
३२	३२		अमीरा	सिपाही	२४	२४	२४
३३	३३		गोलाब सिंह	"	२४	२४	२४
३४	३४		हुंका	"	२४	२४	२४
३५	३५		बुना	"	२४	२४	२४
३६	३६		होइ बिभान सा	"	२४	२४	२४
३७	३७		अली महमाद	"	२४	२४	२४

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मैत्ररुडवतुः जैः पंफः इत्याफीरुड  
कमाः २२ः पंजाबरेजीमेनु

लपटनकरनीलः ज्ञः टीः सेखं संपी.  
अरः वसाः ८ रेजीः पेन झाडु

下等

दाही की ताः सी	अमानन की	जिसे संपेया सीला	सीपाही कानाम	पद सी और जिमेन्ट	अमानन तपे	संपेया ही याम	संपेया जम
१ जुन ६४	१४	जुन ६४ करनैलः मालका सतरः कमानी ग पुर्व गाल केवलरीः	द्वि ग पाल सिंह ठाकुर सिंह मानोपलधी हुकी काली दीन परसाद सईस माता पलने उमन सईस रे सानदार ईमानवक सुवस सईस हासा येन अली	वराट फारवार ड सवारः पः वेजाल केवलरी साईस	४८१४१३११ ३११ २८ ६७ ४१ ११ ३२ १ ४ ४	५५६ ११ ११ ११ ११ ११ ११ ११ ११ ११	४२५८ ३११ २४ ६७ ४१ ११ ३२ १ ४ ४
१३५ २७	२	जुलाई मेजर डवलुः जेः ऐफः इस्वा फोर २ रजी मेन्ट अनः आईः	ईमानवकस	सीपाहीः	१५ १ १ १ १ १ १ १ १ १	११ ११ ११ ११ ११ ११ ११ ११ ११ ११	१५ १५ १५ १५ १५ १५ १५ १५ १५ १५
१३५ ११	११	कपतानः जेः फीटलरः कमाः ४ गोरखारेजी मेन्ट	कसनवार थापा वीरमान थापा सुभानधीनी कालु गुरन रतन वीर थापा गुरवीन मीर धारी सिंह सीतल सिंह रामसरन	११ १ ४ गुरखारेजी मे ११ ११ ११ ११ २ ११ ११ १ ११ ११ १ ११ ११ १ ११ ११ १ ११ ११ १ ११ ११ १ ११ ११ १ ११	२८ २६ ६५ २८ २५ ३३ १२ १ १ १	११ ११ ११ ११ ११ ११ ११ ११ ११ ११	१५ १५ १५ १५ १५ १५ १५ १५ १५ १५
१५८ २	१३	लपटिन कमेलः सेस सपी औरः कमाः द्वि जिमेन्टः अनः आईः	सीतल सिंह रामसरन	११ १ ११ ११ १ ११	१२ १ १ १ १ १ १ १ १ १	११ ११ ११ ११ ११ ११ ११ ११ ११ ११	१२ १ १ १ १ १ १ १ १ १

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श्री क्रीताख्य श्री नमवरः	अमानतकीता	जिसेसपे प्रामीला	श्रीपादिकानाम	पदमी श्रीः रेजीमेन्ट	अमानत सपे पाः	सपे पादिका नामा	सपे पाज
६	अमाः ६४	मेजरः जीपासवाईनः कमाः २ रेजीः सिवरेनकेन्टरी	जबालिर मीदा चीता कादेर रामसहाये मसू	वराटफारवारड मेगरीः २ रेजीः सिव सईस सरवान सिपाही	६३५५ १० २ ० १० २ ५ ६ १५ २ ५ ० ० १५ ० ० २२ १ १	५५ ५५ ११ ११ ११ ११ ११ ११ ११ ११ ११ ११	५००४ १० १० ६ ५ १५ २२
२१ १३	११	लपटनः रेफर्डः लीवीसः कमाः नडी तपंजावः लाईडफीलडवेररी	सोलेरा होस्तु पुगा पीरवती फोतु सुमेआरे रेता	सहीसः नंबर १ रेजीः वलाः ११ ११ घसेडा ११ ११ ११ ११	२ १ २ १ ६ १ ६ १ ० १ ० १ ६ १	११ ११ ११ ११ ११ ११ ११ ११ ११ ११ ११ ११ ११ ११	२ २ ६ ६ ० १ ६
३० १०	सिपटम वर	मेजर कपमानगलासीः कमाः २१ रेजीमेन्टः रेनआईः	पाखती आतरसिंह	कीपाही-६ रेजीः अनः आई ११ २ ११	६५ २० १० ३ १	११ ११ ११ ११	६५ २०
५२	११	लपटः रेचः सीः जेरुः कः २८ रु पीआई	सेखदीना फोजदारा मसु	११ ११ ११ ११ ११ ११	१० १६ ३० २ ११ ४	११ ११ ११ ११ ११ ११	१० १० ३०
१० १५ २५	अकटो ११	रिती करनलडसलः रेगनुयेलकः २ रेजी अन आईः	आतरसिंह सेवमठमइअली मसु (रेजी) कुंरमठमइअली	सीपाही नायेक २ रेजीः अनः सीपाही ३	२५ २६ २६ ४ ५ १	११ ११ ११ ११ ११ ११ ११ ११	४ ४ ४ २६





# SUPPLEMENT TO The Gazette of India.

CALCUTTA, SATURDAY, APRIL 15, 1865.

## OFFICIAL PAPERS.

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### Government of India.

Abstract of the Proceedings of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations under the provisions of the Act of Parliament, 24 and 25 Vic., cap. 67.

The Council met at Government House on Friday, the 7th April 1865.

#### PRESENT:

His Excellency the Viceroy and Governor General of India, *presiding*.

His Honour the Lieutenant Governor of Bengal.

The Hon'ble H. B. Harington.

The Hon'ble W. Grey.

The Hon'ble G. Noble Taylor.

The Hon'ble H. L. Anderson.

The Hon'ble W. Muir.

The Hon'ble R. N. Cust.

The Hon'ble D. Cowie.

#### STAMP ACT AMENDMENT BILL.

The Hon'ble MR. HARRINGTON moved that the Report of the Select Committee on the Bill to amend Act X of 1862 (to consolidate and amend the law relating to Stamp-duties) be taken into consideration. He said that the Select Committee had proposed two additions to the Bill as introduced. One of the additions, which was suggested by his Hon'ble Colleague Mr. Grey, empowered the Governor General of India in Council to reduce or altogether to remit the Stamp-duty prescribed by Act X of 1862 on any of the deeds specified in the Act in the case of any particular class of persons, or of individual members of any particular class of persons; the other extended to Courts of Small Causes, constituted in

Military Cantonments under the Cantonment Magistrates' Act which was passed last year, the provision contained in the present Stamp Act under which Stamp-duty was charged on petitions of plaint in suits of a small amount instituted in Military Courts of Requests or Courts of Cantonment Joint Magistrates exercising Civil jurisdiction, at a lower rate than in the same class of suits when brought in the ordinary Civil Courts and Courts of Small Causes. He had no doubt that the framers of the Act of last year intended that the provision referred to should apply to Courts of Small Causes constituted under the Act, though owing apparently to an oversight the point was not expressly provided for.

The Hon'ble MR. COWIE said that his Hon'ble friend Mr. Bullen, who was a Member of the Select Committee on this Bill, but was unable to attend the Council to-day, had asked him to call His Excellency's pointed attention to that paragraph of the Report which referred to the stamps levied upon instruments transferring property held in trust, where no consideration money passed. The state of society in India was so fluctuating that changes of Trustees were very frequent, and the heavy stamps charged upon transfer of trust funds pressed hardly upon the parties interested, often widows and orphans. He concurred with his Hon'ble Colleague in asking the earliest attention of His Excellency and the Executive Government to the exercise of the power granted in this Bill by removing the Stamp-duties on such transactions. He believed that, in English transfers where no consideration money passed, a nominal stamp of five shillings only was required.

The Hon'ble MR. HARRINGTON said, with reference to what had fallen from his Hon'ble Colleague Mr. Cowie in respect to the addition which had been proposed to be made to the Bill for exempting from Stamp-duty instruments transferring property held in trust where no money passed, he wished to observe that it appeared to

the Select Committee that the proposed addition would go beyond the scope of the present Bill, which had been introduced simply to meet an emergency which had actually occurred. There were other amendments which had been proposed in the Stamp Act; but these also had been left to be considered whenever the Act came under a general revision. The Select Committee had certainly observed, as noticed by Mr. Cowie, that, under the Bill as now framed, it would be in the power of the Governor General of India in Council to reduce the rate of duty on the particular instruments mentioned by Mr. Cowie, but any application for such reduction should be made to the Executive Government.

The Motion was put and agreed to.

The Hon'ble Mr. HARRINGTON also moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### CIVIL AND CRIMINAL COURTS (PUNJAB) BILL.

The Hon'ble Mr. CURT moved that the Report of the Select Committee on the Bill to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies, be taken into consideration. He said that the alterations made by the Select Committee were not very material. Individually he had not been able to concur in them all, but he thought it right to defer to the unanimous opinion of the other Members of the Committee.

The Motion was put and agreed to.

The Hon'ble Mr. CURT also moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### ADVOCATES' AND ATTORNEYS' (NORTH-WESTERN PROVINCES) BILL.

The Hon'ble Mr. HARRINGTON moved that the Report of the Select Committee on the Bill to regulate the admission, removal, and remuneration of Advocates and Attorneys in the Civil and Criminal Courts and Revenue Offices of the North-Western Provinces of the Presidency of Bengal, be taken into consideration. He said that in presenting the Report of the Select Committee he observed that the Bill, in its passage through Committee, had undergone such numerous, great, and important changes, that if the Bill should pass into law, altered as proposed by the Select Committee, it would bear but a faint resemblance to the Bill as introduced; and claiming for the several amendments, suggested by the Select Committee, the merit of being in a greater or less degree improvements upon the Bill, as introduced, he proceeded to remark that, before the Council were called upon to consider those amendments, he thought it would be right that the Bill should be published for a certain time in the *Gazette of India* in order that the public at large, and particularly that portion of it whose interests would be chiefly affected by the Bill, might be made aware of what was intended, and have an opportunity of offering any remarks upon the Bill, altered as proposed, or of stating any objections to the alterations made in the Bill by the Select Committee. He moved, therefore, that the Bill be published for three weeks, and the motion having been assented to, the Bill was published accordingly. Notwithstanding the comparatively short time that the Bill had been before the public, the result of the publication had been

that they had received a very valuable communication on the subject of the Bill from the Judges of the High Court at Calcutta, together with a Minute by the Hon'ble Mr. Seton-Karr, one of the learned Judges of the Court, and several petitions from the Vakeels and Mookhtars of the High Court and of other Courts, in which the petitioners had set forth at length their objections to the Bill. He had also been favoured with a letter from the Hon'ble and learned Chief Justice of the High Court at Calcutta containing many practical suggestions, the adoption of which appeared to him desirable and likely to conduce to the satisfactory working of the Bill. All these communications had been most carefully considered, and he had been led, in reference to what was stated therein, whether by way of suggestion, or as objections to the Bill, as settled by the Select Committee, to propose several amendments, some of which were very important. The amendments proposed by him in the Bill, and which he believed had the general concurrence of the other Members of the Select Committee to which the Bill was referred, were printed in italics in the copy of the Bill circulated to Hon'ble Members yesterday. It had been objected to the Bill, as settled by the Select Committee, that it would materially interfere with, and, indeed, set aside that portion of the Letters Patent for constituting High Courts of Judicature at Calcutta, Madras, and Bombay, which related to the appointment and removal of the Vakeels in those Courts, and a doubt had been expressed as to the competency of this Council to alter this part of the Letters Patent or to legislate on the subject. He considered that there was some force in this objection; but assuming that this Council, in the exercise of its general functions, had power to make rules by the passing of a law such as was now under consideration, for regulating the appointment and removal of Vakeels and Mookhtars in the High Courts, he was disposed to think that it would not be expedient to exercise the power in the present Bill, and he proposed, therefore, that the Vakeels and Mookhtars of the High Courts should be excluded from the operation of the general provisions of the Bill. He did not see how they could in any other way avoid making distinctions between the several classes of legal practitioners in the High Court which would be very invidious, and would certainly give rise to much discontent for which he thought there would be some ground. It was scarcely necessary for him to say that, as regarded character and qualifications, there was a very great difference between the Vakeels and Mookhtars practising in the High Courts and the same classes of practitioners elsewhere, and that, however necessary it might be to legislate at this time for the latter classes, the same necessity did not exist in respect of the former classes. He also proposed to place the Vakeels of the High Courts on a footing of equality with the learned Barristers and Attornies-at-law in those Courts as regarded practising in other Courts. The Vakeels of the High Courts were now at liberty to practise in any of the Mofussil Courts, and he did not think that they should be deprived of this power by the present Bill. The Vakeels naturally attached great importance to the retention of the privilege, and he was of opinion that it might be continued to them, not only with perfect safety, but with great public advantage. These were the most important alterations proposed by him in the Bill. There were some other altera-



tions which he had proposed in accordance with the recommendations of the Chief Justice and the other Judges of the High Court. With regard to the petitions which had been received from certain Vakeels and Mookhtars in the Mofussil, he did not think that the objections taken in them to the Bill were deserving of attention or called for particular notice. For the most part these objections raised questions rather of private than of public interest, and when these two interests came into conflict, as a rule, private interests should give way. It was proper he should notice that the present Bill would not disturb or interfere with the rights or privileges of any Vakeels who were now practising in any Court, provided they enrolled themselves as directed in the Bill, nor would it prevent any person who was qualified to practise as a Vakeel under any law or rule having the force of law from so practising, subject to the provision just mentioned. The Bill certainly required that the Vakeels, enrolled under its provisions, should, at the end of each year, renew the certificates under which, after the Bill came into operation, they would practise, and that upon such renewal they should pay a moderate fee; but this requirement only followed the rule at home in respect to certain classes of legal practitioners. The Bill contained a similar provision in respect to the Mookhtars and Revenue Agents who were to be enrolled and admitted in the same manner as Vakeels. Considering the very great pecuniary advantages which these two classes of practitioners, equally with Vakeels enrolled under the Bill, would derive from being allowed to practise in the several Civil and Criminal Courts and Revenue Offices, subject to the conditions of the certificates held by them, he thought that the Government might fairly exact payment of the moderate fees proposed in the Bill both on the taking out and on the renewal of certificates, whether as a matter of public revenue or otherwise. No doubt, the Bill might seriously affect a large number of persons, who were now practising in the Courts and Revenue Offices in the Mofussil under the designation of Mookhtars, but this was unavoidable if anything was to be done in the way of legislation as regarded this class of practitioners. It was in reference to them and to their malpractices as a class, which were notorious, that he was led to bring in the present Bill. In asking for leave to introduce the Bill, he observed that, on this side of India, there was no law for regulating the admission and removal of Mookhtars, and that the consequence was that a large number of utterly untrustworthy and unfit persons had obtained admission into the Office, whereby the interests of justice and the character of the Courts had greatly suffered. If the effect of the present Bill should be to weed the class of Mookhtars of the large number of unfit and incompetent persons now practising as such, and to exclude them from appearing and practising in the Courts and Revenue Offices, it would be a legitimate consequence of the Bill, and was a result much to be desired. The object aimed at in the Bill was to raise the character of the Native Bar in the Mofussil, or rather to create a respectable and trustworthy Native Bar. What was called the Mofussil Native Bar did not deserve the name. For years past it had been a ground of complaint against the administration of justice in the Mofussil, that there was neither independence, honesty, nor professional learning amongst the members of the Native Bar. As regarded a large number of the Vakeels practising in the Mofussil, he was able of his own knowledge to say this charge was inapplicable; but taking the Vakeels in the Mofussil as a body, he was bound to admit that the complaint

was certainly not unfounded. He trusted that the present Bill, as soon as it had been in force a sufficient time to admit of its provisions being carried fully into effect, would so operate as to remove all grounds for the complaints which he had mentioned, and that it would be the means of giving to the Courts and Revenue Offices in the Mofussil a respectable and trustworthy body of competent legal practitioners to aid them in the discharge of their duties. The Bill proposed that no one should be enrolled under its provisions as a Vakeel, Mookhtar, or Revenue Agent, who had not proved himself qualified in all respects for the Office by passing an examination to be conducted under proper rules. Once enrolled, no Vakeel, Mookhtar, or Revenue Agent would be liable to be suspended as a punishment, or dismissed, except by order of the High Court or other highest Appellate Court in the case of Vakeels and Mookhtars, or by order of the Revenue Board in the case of Revenue Agents. This would give security to the holders of the Office, and he hoped would produce that feeling of independence in which the present legal practitioners in the Mofussil were stated to be so deficient. He feared that the day was still very far distant when the Vakeels in the Mofussil, by their integrity, learning, and ability might claim to be on a par with the almost unrivalled English Bar in this country and at home, but he considered that this Bill was a large and important step in advance, or towards that end. He had no doubt that the Bill, altered as now proposed, would work very satisfactorily, and that, wherever introduced, it would tend greatly to improve the administration of Civil and Criminal Justice, as also the administration in the Revenue Department, so far as this was affected by the employment of Mookhtars or Agents representing other parties.

The Motion was put and agreed to.

The Hon'ble Mr. HARRINGTON also moved that the amendments shown in italics in the copies of the Bill last circulated be adopted.

The Motion was put and agreed to.

His Honour the Lieutenant Governor moved as an amendment that, in Section 10, paragraph (c), the words "in Regulation Provinces" and "in Non-Regulation Provinces" be omitted, and that in the same Section, paragraph (g) should stand thus:—

"In the Courts of the Commissioners of Circuit, Magistrates, and subordinate Magistrates; in the Sudder Amceens and Moonsiffs' Courts, and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars — Rs. 8."

The Motion was put and agreed to.

The Hon'ble Mr. MEH moved the following amendment of which notice had not been given.

That Section 22 stand thus:—

"The stamp on such certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Revenue Agent.

In the Board of Revenue or in any Office subordinate to the Board Rs. 15

In the Office of a Commissioner or in any Office subordinate to the Commissioner " 10

In the Office of a Collector or in any Office subordinate to a Collector " 5"

The Motion was put and agreed to.

The Hon'ble Mr. HARRINGTON moved that the last sentence of Section 44 should stand thus:—

"The rules, penalties, and fees so made, prescribed, and fixed, and every variation thereof shall be pub-

lished in three consecutive numbers of the Official Gazette."

The Motion was put and agreed to.

The Hon'ble Mr. HARRINGTON then moved that the Bill as amended be passed.

The Motion was put and agreed to.

#### MUNICIPAL ACT (LUCKNOW) AMENDMENT BILL.

The Hon'ble Mr. CURRIER moved for leave to introduce a Bill to amend Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow). He remarked that last year an Act was passed by the Council to provide for the appointment of a Municipal Committee in the city of Lucknow, and by Section 21 the Governor General in Council was empowered by an order in the Gazette to extend this Act to any other place under the immediate administration of the Government of India. It was overlooked at the time, that provision which might be very suitable for one of the largest cities in India—Lucknow—might not entirely be adapted to smaller places, where, nevertheless, Municipal government was highly desirable. Such had proved to be the case, and it appeared that every Municipal Committee must by law consist of no less than 26 members, whereas it was stated to be impossible to constitute, in some places, a Committee consisting of so large a number of competent members; and this had proved an obstacle to the extension of the Act to Fyzabad, a place in every other respect very suitable for Municipal institutions.

The Motion was put and agreed to.

#### SUCCESSION AND INHERITANCE (PARSEES') BILL.

The Hon'ble Mr. ANDERSON moved that the Report of the Select Committee on the Bill to define and amend the law relating to Succession and Inheritance among the Parsees, be taken into consideration. He said—"The object of the Bill is to relieve the Parsees from the operation of that portion of the Indian Succession Act, 1865, which related to intestate property, and to state the provisions by which partition of such property should be regulated for that community. The only alteration of importance made by the Select Committee is the addition of a Section stating the particular clauses of the Indian Succession Act from which the Parsees are to be exempted. This provision could not be introduced into the original Bill, because the Indian Succession Act had not then become law. I mentioned, however, when I obtained leave to introduce the Bill, that I should in Committee move the addition of the clause to which I now advert. The other alterations made by the Select Committee are merely verbal.

The Bill, then, as it now stands, has two prominent features—first, it exempts Parsees from the provisions of the Indian Succession Act relative to intestate property; secondly, it provides that the share of daughters in relation to such property shall be equal to one-fourth of the share of sons. The Indian Succession Act provides that daughters shall succeed equally with sons to intestate property. A large number of Parsees, principally residing in the Mofussil, consider that daughters should have no share at all, or at most only a minute fraction. The great majority of the Parsee community, and especially of those residing in Bombay, consider that the course proposed in the present Bill should be followed. That course, it will be observed, is a *via media* between the two extremes just stated.

I had expected to receive from Bombay a communication relative to this Bill. None, however, has reached me, and none, I am informed, has been received by the Government of India; but I some time ago received a private letter from the President of the Parsee Law Association, informing me that the Parsees approved of the Bill, and suggesting some amendments. These I placed before the Select Committee, but, on consideration, the Bill as it stands, was preferred. The only amendment of importance which was urged, was a suggestion that the Parsees should be exempted from the operation of the 108th Section of the Indian Succession Act,—the Section which may be called the Mortmain Section. My friend the President of the Parsee Law Association urged on me that this Section was inapplicable to Parsees, as they were in no degree priest-ridden. I would remark that the Section alluded to, imports into India the 9th Geo. II., cap. 36, commonly called the Statute of Mortmain. Now opinions may differ as to the propriety of that law; but it will be generally conceded that if such a law is made applicable to any portion of the community subject to the Succession Act, it must be made applicable to all who are so subject. I freely admit that the Parsees are not priest-ridden; but there is a principle which underlies all laws of Mortmain, and which addresses itself to a sentiment of deeper growth than priestly influence. That sentiment is the desire which many men of all creeds and races feel on their deathbeds to make terms, as it were, with the mysterious future by a liberality exercised at the expense of their heirs. It is one of the subtlest of those mixed questions of law and morals, to what extent a man is justified in influencing by testation the distribution of his property. The wisdom of successive generations has determined, with reference to this kind of testation, that there ought to be the most ample security, not merely that the testator is in possession of his faculties, but that his mind is in an entirely healthy state, capable of looking before and looking after, and in no way thrown off its balance by the fear of approaching dissolution. On considerations of this kind the laws of Mortmain have been founded, and to such considerations the Parsees are as subject as their fellow-men. I was unable, therefore, to recommend the amendment proposed by my friend to the Select Committee for adoption. And I may add that Parsees make such munificent use of their wealth during their lives, that the Legislature is bound to guard, in some measure, their heirs from any testamentary profusion in favour of public objects, which the fear of death may possibly suggest.

The Motion was put and agreed to.

The Hon'ble Mr. ANDERSON also moved that the Bill as amended be passed.

The Motion was put and agreed to.

His Excellency THE PRESIDENT said that, as this was the last meeting at which his Hon'ble friend Mr. Anderson would be present, he felt bound, before adjourning the Council, to express the regret which they all felt at losing the services of so able a member, and the hope which they all entertained that Mr. Anderson's successor would be like him.

The Council then adjourned.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)  
CALCUTTA,  
The 7th April 1865.



# The Gazette of India, EXTRAORDINARY.

Published by Authority.

MONDAY, APRIL 10, 1865.

No. 3326.

HOME DEPARTMENT.

*Fort William, the 10th April 1865.*

## NOTIFICATION.

Her Majesty having appointed the Right Hon'ble William Nathaniel Massey to be an Ordinary Member of the Council of the Governor General of India, and the said Right Hon'ble William Nathaniel Massey having arrived at the Presidency in the Peninsular and Oriental Steam Navigation Company's Vessel *Bengal*, he has accordingly this day taken the oaths and his seat as an Ordinary Member of the Council of the Governor General of India, under the usual salute from the Ramparts of Fort William.

By order of the Governor General in Council,

A. M. MONTEATH,

*Under Secy. to the Govt. of India.*



# The Gazette of India,

## EXTRAORDINARY.

Published by Authority.

CALCUTTA, FRIDAY, APRIL 28, 1865.

Home Department.

### LEGISLATIVE.

The following Report of a Select Committee, together with the Bill as settled by them, was presented to the Council of the Governor-General of India for the purpose of making Laws and Regulations, on the 13th April 1865:—

### REPORT.

We, the undersigned, the Members of the Select Committee of the Council of the Governor-General of India for the purpose of making Laws and Regulations, to whom the Bill for consolidating and amending the Laws relating to the Procedure of the Courts of Civil Judicature in British India, together with the communications noted in the annexed list, was referred, have the honour to report as follows:—

We have carefully revised the Bill, and have adopted a large number of the suggestions contained in the communications above mentioned.

Before entering into the details of our revision we may premise that the alterations which we have made are to a great extent verbal, and that, with very few exceptions, they do not affect the general or fundamental principles of the Bill as introduced.

The most important alterations involving questions of principle are in the Sections relating to the specific performance of contracts, and in the part of the Code relating to Reviews of Judgments.

We have provided that specific performance shall not be decreed of any contract, the complete performance of which is necessarily extended over a longer period than five years. When any such

contract shall have been entered into before the passing of the Act, we propose that specific performance shall not be decreed for more than five years from the date of the decree.

We have altered Sections 131, 132, 133, 134 and 135(a), and confined their operation to suits brought to enforce the specific performance of registered contracts. For the procedure to enforce the *ex parte* order given under Section 133, we have provided that, on proof of service of the order, the Court shall receive the plaintiff's evidence, and, subject to certain conditions, pass a decree for specific performance. The conditions prescribed are these:—that the consideration is adequate; that the contract is reasonably certain; that the defendant is able to perform it, and that the performance will not impose extreme or immoderate hardship upon him. We have thus, we trust, met the objections of those who fear that the power of enforcing specific performance of contracts by the attachment of the property and the imprisonment of the party guilty of the breach of contract, may be used as an instrument of oppression. We have enabled the Court to decree damages in the event of the contract not being specifically performed, and provided for the execution of the decree.

The power given to the Judges of the subordinate Courts of reviewing, of their own authority, orders passed not only by themselves but by their predecessors, or by Judges for whom they are merely officiating, has, we understand, led to considerable abuse, and the Committee are strongly of opinion that the opportunity for this abuse should be taken away.

Under the Code as it now stands, many orders passed in execution of a decree are not open to appeal. It has been suggested that in such cases

(a) The numbers in this Report refer to those of the Sections of the Bill as introduced and published in the Gazette of India for 20th April 1864.



either an appeal or a review of judgment should be allowed.

We have thought it better to adopt the latter alternative, subject to the proviso, which we propose should extend generally to reviews, that, when the review is granted by a Court subordinate to a District Court, it shall be with the previous sanction of such Court, and that, when granted by a District Court, it shall be with the previous sanction of the High Court.

We have armed the Civil Courts with power to punish witnesses for failing to attend when summoned, instead of leaving the cases of persons so offending to be dealt with by the Criminal Courts. The necessity for this provision in order to the due administration of justice has been strongly pressed by many Judges, some of them of long standing and of considerable experience.

We have introduced several changes in the Chapter relating to the High Courts, and exempted those Courts from the operation of some Sections, which, however well adapted to Courts in the Mofussil, have been found unnecessary and, in some instances, inconvenient in the High Courts with their superior judicial agency.

We will now specify some of the minor additions and alterations which we have thought necessary.

We have added definitions of 'Person,' 'Section,' 'Chapter,' 'Law,' 'Judgment,' 'Decree,' 'Immovable Property,' 'Movable Property,' 'Bond,' 'Document,' and 'Subordinate Court.'

We have inserted a clause analogous to Section 3 of the Bill as introduced, providing that the Sections to which the letters 'R. C.' are affixed, shall extend to Revenue Courts.

We have provided that every person shall be entitled to sue except persons expressly prohibited from suing by any law. Executors and administrators, trustees of express trusts, and next friends of lunatics and idiots may, on obtaining the permission of the Court, sue without joining with them the persons for whose benefit the suit is brought. Infants will sue by guardian or next friend, who will be admitted and may be removed by the Court, and who may be made liable for the costs of the suit. We have also provided that an infant defendant shall appear by guardian.

To Section 10 we have added explanations after the manner of the Indian Penal Code and the Indian Succession Act, 1865, as to the place in which a cause of action may be held to have arisen: as to the dwelling necessary to give jurisdiction: as to the place in which a Corporation or Company shall be deemed to carry on business; and as to the business contemplated in the Section. To Section 61 we have added an explanation of what shall be considered to constitute residence out of British India. We have also given explanations as to the adequacy of consideration and the certainty required for enforcing specific performance of a contract.

We have introduced Sections declaratory of the tribunal in which suits not for immovable property, shall be brought against the Secretary of State, the Government of India and the local Governments.

We have provided for the subscription and verification of the plaint in suits by Government or the Secretary of State.

We have extended Section 24 (as to declaratory suits) so as to enable the Court to make declarations of future rights, and to empower a trustee to obtain a declaration of the respective rights of the persons interested in a trust-estate. We have provided that no Court shall make any declaratory decree or order unless it could, if required, act upon it by giving consequential relief.

The extension of Railway communication has induced us to add to Section 73 a second exception to the rule that no party resident more than fifty miles from the Court shall be ordered to appear in person. We have provided that if Railway communication exist between the place where the party reside and the place where the Court is held, or within a convenient distance from such places, the Court shall have a discretion as to making such order. A similar addition has been made to Section 280.

On the issue of a Summons for final disposal, the parties will be required to produce their witnesses on the day fixed for hearing the suit; and we have provided a procedure where the Court cannot give judgment at the first hearing.

When the defendants are partners, and the suit relates to a partnership transaction, service on one defendant for himself and the others will be sufficient.

When the defendant fails to comply with an order under Section 113 to give security for his appearance, we have provided by express words that the Court may commit him to Jail.

We have added a clause to Section 120, providing that the Court, if satisfied of the plaintiff's inability to furnish the specification and valuation required by that Section, may dispense therewith.

We have provided that an award of compensation for arrest or attachment on insufficient grounds, or for the needless issue of an injunction, shall be executed like a decree for money.

A Notice to produce documents when served on a party to a suit will, if the Court shall so order, have the force of a Summons.

We have altered Section 163, so as to enable the Court, when the defendant fails to appear, to dispense with strict proof of the service of the Summons; and we have provided that, if the Summons shall have been issued for the final disposal of the suit, the Court, if satisfied of the justice of the plaintiff's claim, may proceed to pass a decree in his favour *ex parte*. The written declaration

(mentioned in Section 173) in support of the cause shown for failure to appear will now be on stamp-paper where a stamp is required for petitions.

As a preliminary to setting aside a decree *ex parte* in a suit involving a claim to money, we have considered it right to require the amount with costs to be paid into Court.

We have provided that, in the case of any party failing to present a written statement called for under Section 183, the Court may pass a decree against him, or make such order in relation to the suit as it may deem proper.

In order to bring the Code into harmony with the Stamp Act (X of 1862, Section 15) we have made the penalty payable on the reception of unstamped or insufficiently stamped documents treble, instead of double, the amount of the stamp duty or additional stamp duty which it should have borne.

We have added a proviso to Section 217 that when the hearing of evidence shall have once begun, the hearing of the suit shall not be adjourned at the application of any of the parties, except from day to day, when all the witnesses cannot be examined on the same day. Great encouragement has been given to perjury and subornation of perjury, and other serious irregularities have arisen, in consequence of the facility hitherto enjoyed of obtaining adjournments, especially in the hearing of evidence.

We have provided a procedure where cases, in which a District Court shall have given an opinion under Section 245 on the law of the religion or of the established customs of the parties, shall come on appeal before such Court.

We have made provision in Section 266 for the Judge's temporary inability to take down evidence as required in that Section.

We have empowered the Court to appoint any Government Officer with the consent of his immediate superior to be a Commissioner to make a local investigation.

We have provided a procedure *ex parte* when the parties do not appear before the Commissioner.

As to costs, we have provided that, at the time of disposing of any application, the Court may award to either party the costs of such application, or reserve the consideration of such costs for any future stage of the proceedings. We have further empowered the Court to set-off costs payable to one party by another against a sum which the former shall admit to be due from him to the latter. We have also provided that the Court may give interest on costs at six per cent., and direct that costs, with or without interest, be made a charge on the subject-matter of the suit. In case of the plaintiff's bankruptcy or insolvency, we have provided that the Court may award the defendant's costs to be recovered out of the plaintiff's estate; and, where the plaintiff withdraws from the suit

without permission, he will be liable for such costs as the Court shall award. We have given the Courts power, in rejecting a written statement and on re-admitting an appeal dismissed for default, to impose terms as to costs or otherwise.

We have by express words empowered the Courts to appoint the Assessors mentioned in Sections 298 and 299, and we have thought it inexpedient to require that the opinions of the Assessors shall always be given orally.

We have empowered the Court, with the consent of the parties, to put any of them or any other person on his oath or affirmation, and to decide the suit on the statement made under that sanction.

We have provided that, if the judgment in suits in which a regular appeal is not allowed be written in English, it shall not be necessary to translate it, unless any of the parties require a translation. In like manner the judgment of the Appellate Court need not be translated unless any party shall so require.

The judgment of a Court of Small Causes will not be required to give the reasons for the decision.

We have provided for the execution and, if necessary, the alteration of the conveyance or endorsement tendered under Section 327. We have also provided for the case of the Judge agreeing to a conveyance going beyond the terms of the decree, or refusing to agree to a conveyance in conformity with those terms.

A warrant for arrest of the defendant will direct the serving officer to bring him before the Court.

In Sections 369 and 400 we have authorized the immediate sale of perishable commodities.

Where there is a mortgage or lien on the attached property, we have provided that the attachment shall continue subject to the claim of the mortgagee or person entitled to the lien.

If the decree-holder purchase at an execution sale, we have provided that the amount of his decree may be taken in payment, in whole or in part, as the case may be.

As regards the enforcement of registered Bonds, we have provided that the obligee of a bond payable by instalments may sue before all the instalments shall have become due. We have also provided that the representative of a deceased obligor may plead that he never received any assets, or that they have been paid away, or that they are insufficient.

In Section 512 we have added to the grounds of setting aside an award—either party having fraudulently concealed any matter which he ought to have disclosed, or having wilfully misled or deceived the arbitrators or umpire. The Section

as it stood provided for setting aside an award on the ground of misconduct, only when a charge of such misconduct was established against the arbitrators or umpire. As observed by the Madras Government, this renders such charges more frequent than they would otherwise be, and the probability of being exposed to them makes respectable men unwilling to arbitrate.

We have given a regular appeal in respect of costs alone, provided that it shall appear upon the face of the decree or order that the Court below proceeded upon a mistake or misapprehension.

We propose that on appeal the Courts should be required, of their own motion, to take cognizance of defences founded on lapse of time, breach of the Stamp laws or want of jurisdiction.

A respondent taking objection to the original decree from which he may have preferred no cross-appeal, will have to give seven days' notice in writing of such objection.

We have added to the grounds of special appeal, failure by a subordinate Court to determine an issue of law or usage having the force of law, and error in the opinion given by the District Court on a question of religious law or established usage or custom.

The Advocate's certificate endorsed on the application for a special appeal or for a review of judgment, will be required to specify by their numbers which of the grounds he considers well founded and sufficient.

We have given the High Court power to call for the record of any case decided by a Court of Small Causes, or, on appeal, by any subordinate Court, in which no appeal shall lie to the High Court, if such Small Cause Court, or such subordinate Court, on hearing the appeal, shall appear to have exercised a jurisdiction not vested in it by law.

We have omitted the Section empowering the Courts to return the stamp duty paid on an application for review.

In the Chapter on High Courts, we have omitted the provision contained in Section 629 as to

suits against the representative of a deceased person on a cause of action which accrued against the deceased in his life-time. We have also omitted Section 632 as unnecessary.

In a Division Court, if the Judges shall be equally divided, the opinion of the Senior Judge will prevail.

We have extended the power of reference given by Section 640, so as to enable the matter to be investigated by the Registrar or other proper Officer of the High Court, and we have declared that any act not of a judicial nature which the Code requires to be done by a Judge, may be done by the Registrar, or such other Officer as the Court may direct.

We have declared that in suits coming before the High Courts in the exercise of their ordinary original jurisdiction, Attornies may obtain and serve summonses.

We have provided that nothing in the eighth Section shall debar the High Court or any Judge of the High Court from rescinding or modifying any interlocutory order passed by it or him in the course of a suit.

We have for reasons already given exempted the High Court from the operation of Sections 26, 27, 28, 29, and 34.

Lastly, we have empowered the Governor-General in Council to invest the chief Executive Officer of any part of British India under the immediate administration of the Government of India, with the powers vested by the Code in a Local Government.

We recommend that this Report and the Bill as amended be published in the Official Gazette.

H. B. HARRINGTON.

H. L. ANDERSON.

J. N. BULLEN.

G. N. TAYLOR.

RAJA SAHIB DYAL BAHADUR.

W. MUIR.

R. N. CUST.

*The 10th April 1865.*

From Chief Secy. to Govt., Fort St. George, No. 901, dated 10th June 1863.

From Registrar, High Court, Madras, No. 14, dated 16th January 1863.

Remarks of Sir Colley Harman Scotland, Chief Justice.

From Secy. to Chief Commr., Oude, No. 2775, dated 4th December 1863.

Observations by Sir Colley Harman Scotland and Sir Adam Bittleston.

Minute by Mr. Justice Norman, Officiating Chief Justice.

From Secy. to Chief Commr., Central Provinces, No. 3754, dated 9th August 1864.

From Judicial Commr., Central Provinces, No. 2030, dated 29th July 1864.

From Secy. to Govt. of India, Foreign Dept., No. 282, dated 5th September 1864.

From R. G. Keane, Esq., No. 41, dated 3rd September 1864.

From ditto ditto, No. 42, dated 3rd September 1864.

Remarks by J. W. Mirfield, Esq., Solicitor, Calcutta, dated 21st October 1864.

Constructions of the late Sudder Court and Appellate branch of the High Court, Madras, from the date on which the Code came into operation to the 31st December 1862.

Supplemental statement of decisions of the High Court at Madras, Original side, from the 16th August to the 31st December 1862.

Rulings of the High Court, Madras, both in its original and appellate jurisdiction, during the year 1863.

Rulings of the Sadr Diwani Adalat, N. W. P., from the passing of the Act to the close of the year 1862.

Rulings of ditto ditto from the enactment of Act VIII of 1859 to the end of the year 1862.

Rulings of ditto ditto in cases in which there was a difference of opinion among the Judges of the Court.

Rulings of ditto ditto consequent on doubts in regard to the construction of particular Sections, entertained by subordinate Courts.

- Rulings of the Court of Nizamat Adalat, N. W. P., in cases in which the construction put by the lower Court on any point is set aside by the Sadr Court.
- Rulings of the Court of Sadr Diwani Adalat, N. W. P., during the months of July to December 1863.
- Rulings of ditto ditto during the second half of 1863.
- Rulings of ditto ditto in cases in which there was a difference of opinion among the Judges of the Court on points of construction.
- Minute by Mr. Justice Seton-Karr, dated 24th August 1864.
- Minute by Mr. Justice Campbell, dated 10th September 1864.
- Extract, paragraphs 13 to 27, from the Annual Report of the Civil Judge of Lucknow for the year 1861.
- Rules for trial by Jury in the City of Lucknow.
- From Judicial Commr., Oude, No. 96, dated 5th July 1861.
- From ditto ditto, Oude, No. 121, dated 14th February 1861.
- From Civil Judge of Lucknow, No. 87, dated 21st March 1861.
- From Judicial Commissioner, Oude, No. 294, dated 23rd April 1861.
- Extract from the Report on the administration of justice in Oude in 1861.
- Minute by Mr. Justice Levinge, dated 21st September 1864.
- Memorandum by Mr. Justice Glover, dated 15th August 1864.
- From Officiating Under Secy. to Govt., N. W. P., No. 197 A, dated 26th June 1863.
- From Registrar, Sadr Court, N. W. P., No. 947 A, dated 31st May 1863.
- From Officiating Secy. to Chief Commr., Oude, No. 2721, dated 27th October 1864.
- From Settlement Commr., Oude, No. 3789, dated 11th August 1864.
- Memorandum by the Supdt. of Excise and Stamps, Oude, on Sections 193 to 196, dated 15th August 1864.
- From Officiating Judicial Commr., Oude, No. 516, dated 21st October 1864.
- Minute by the Assistant Civil Judge, Lucknow, dated 11th October 1864.
- Memorandum by Extra Assistant Commr., Oude, dated 22nd July 1864.
- From Officiating Deputy Commr., Fyzabad Division, No. 280, dated 29th July 1864.
- Memorandum by W. Oldham, Esq., Officiating Deputy Commr., Fyzabad, dated 12th August 1861.
- Report by Lieut. A. H. Eckford, Assistant Commr., dated 30th August 1864.
- Notes by E. G. Fraser, Esq., Civil Judge of Lucknow, dated 23rd September 1864.
- Minute by Mr. Justice Bayley, dated 1st November 1864.
- Note by Mr. Justice Phear.
- Remarks and suggestions of the Sadr Court, N. W. P., dated 15th November 1864.
- Additional supplemental Note by Mr. Justice Levinge, dated 19th November 1864.
- Additional Note by Mr. Justice Levinge, dated 6th December 1864.
- From Commr. of Lucknow, No. 1167, dated 26th October 1861.
- Memorandum by Officiating Deputy Commr., Lucknow, No. 515, dated 27th October 1864.
- Notes by F. L. Beaufort, Esq., Judge of the 24-Pergunnahs, dated 22nd November 1864.
- Notes by Principal Sadr Amin, 24-Pergunnahs.
- Remarks by Officiating Deputy Commr. of Durrabad, dated 20th November 1864.
- Extract of letter from Commr., Khyrabad Division, No. 185, dated 21st November 1864.
- Notes by Settlement Officer, Durrabad, dated 22nd November 1864.
- Memorandum by Extra Assistant Commr., Oude, dated 28th November 1864.
- Brief remarks by Vishwanath Narayan Mandlik, Pleader, High Court, Bombay, dated 13th October 1864.
- From Judge of Tipperah, No. 380, dated 10th November 1864.
- From 1st Principal Sadr Amin, 24-Pergunnahs, dated 17th October 1864.
- From Principal Sadr Amin, Burdwan, dated 10th November 1864.
- From Principal Sadr Amin, Behar, dated 11th November 1864.
- From Sadr Amin of Moorshedabad, dated 27th October 1864.
- From Judge of the Small Cause Court, Hooghly, No. 28, dated 29th October 1864.
- From Principal Sadr Amin, Chittagong, dated 17th November 1864.
- From Officiating Judge of Bhaugulpore, No. 245, dated 16th November 1864.
- From Sadr Amin of Bhaugulpore, dated 16th November 1864.
- From Secretary to Govt., N. W. Provinces, No. 268 A, dated 5th December 1864.
- From Registrar, Sadr Diwani Adalat, N. W. Provinces, No. 2057, dated 15th November 1864.
- Abstract of replies to N. W. P. Courts' Circular Letter, No. 15, dated 28th July 1864.
- Remarks by the Chief Commissioner, British Burmah, dated 3rd December 1864.
- From Chief Commissioner, British Burmah, dated 6th December 1864.
- From Commissioner, Tenasserim Division, No. 689, dated 3rd December 1864.
- From Assistant Commissioner, Moulmein, dated 28th July 1864.
- From Assistant Commissioner, Konkara Sub-Division, dated 16th August 1864.
- Comments by the Deputy Commissioner of Tavoy, dated 27th August 1864.
- Remarks and suggestions by the Deputy Commissioner of Mergui, dated 22nd October 1864.
- From Secretary to Govt., Punjab, No. 986, dated 5th December 1864.
- Opinion of the Munsif of Syedpoor, Zillah Ghazeepoor.
- From Munsif of Motcharee, dated 28th November 1864.
- From Munsif of Kishengunge, dated 29th November 1864.
- From Judicial Commr., Chota Nagpore, No. 41, dated 29th November 1864.
- From Sadr Amin of Midnapore, dated 1st December 1864.
- From Pandit Sri Kishen, Munserim, Roy Bareilly.
- From Assistant Commr., Roy Bareilly, dated 25th August 1864.
- Remarks by Officiating Deputy Commr., Roy Bareilly, dated 8th December 1864.
- Opinion of the Advocate General, Madras.
- From Secy. to Govt. of Punjab and its Dependencies, No. 986, dated 5th December 1864.
- General remarks by P. S. Melvill, Esq., Commr. of Umritsar.
- General remarks by Colonel Lake, Commr., Jullunder.
- From Secretary to Board of Revenue, No. 5669, dated 1st September 1864.
- From Acting Registrar, High Court, No. 66, dated 15th November 1864.
- Further Observations in addition to those of the Chief Justice, Madras, and Sir Adam Bittleston, previously forwarded.
- From Acting Civil Judge of Madura, No. 206, dated 29th July 1864.
- From Judge of the Court of Small Causes, Negapatam, No. 139, dated 2nd August 1864.
- From Civil Judge of Ootacamund, No. 154, dated 13th August 1864.
- From Judge of the Court of Small Causes, Madura, No. 59, dated 3rd September 1864.
- From Acting Judge of the Small Cause Court of Tanjore, No. 214, dated 22nd September 1864.
- From Civil Judge, Salem, No. 13, dated 29th September 1864.
- Remarks and suggestions of the District Munsif of Tripatir.
- From Civil Judge, Calicut, No. 42, dated 11th November 1864.
- Remarks and suggestions of Principal Sadr Amin of Calicut.
- From Civil Judge of Tanjore, No. 1144, dated 12th November 1864.
- Remarks by the Judge of Tanjore.
- Remarks and suggestions of the Principal Sadr Amin of Tanjore, dated 10th September 1864.
- Notes by the Officiating Additional Principal Sadr Amin, Tanjore, dated 20th September 1864.
- From District Munsif of Munargudi, No. 107, dated 14th September 1864.
- From Civil Judge of Nellore, No. 64, dated 14th November 1864.
- From Acting Principal Sadr Amin of Salem, No. 27, dated 19th November 1864.
- From Acting Civil Judge of Rajahmundry, No. 357, dated 18th November 1864.
- Remarks by Acting Civil Judge of Rajahmundry, dated 18th November 1864.
- From Civil and Sessions Judge of Mangalore, No. M. D., dated 22nd November 1864.
- Memorandum by District Munsif of Teekally, Ganjam, dated November 1864.
- Memorandum by District Munsif of Aska, dated 18th October 1864.
- From Acting Civil Judge, Chicacole, No. 453, dated 24th November 1864.



Opinion of District Munsif of Berhampur, dated 21st November 1864.

From Judge of the Court of Small Causes, Masulipatam, No. 339, dated 29th November 1864.

From Civil Judge of Chingleput, No. 172, dated 30th November 1864.

From District Munsif of Cunchi, dated 11th November 1864. Observations of the District Munsif of Tripasoor, dated 8th November 1864.

From Acting Civil Judge of Chicacole, No. 473, dated 6th December 1864.

Opinion of the District Munsif of Chicacole, dated 5th December 1864.

Additional Memorandum by the Munsif of Buzar, dated 7th November 1864.

From Principal Sadr Amin of Bhangailpoor, No. 28, dated 14th December 1864.

From Registrar, High Court, No. 3606, dated 21st December 1864.

Minute by Mr. Justice Norman.

Resolution of the High Court, Calcutta, dated 3rd December 1864.

Minute by Mr. Justice Morgan, dated 2nd December 1864.

From Deputy Commr., Mohumdee, No. 402, dated 19th December 1864.

From Sir Joseph Arnould, Judge of High Court, Bombay, No. 27, dated 13th August 1864.

From Mr. Justice Newton, High Court, Bombay, dated 13th December 1864.

Memorandum by Commr. of Sind, dated 17th August 1864.

From Acting Judge, Cunnra, No. 1123, dated 30th August 1864.

From Principal Sadr Amin of Sircy, dated 22nd August 1864.

From Munsif of Yellapoor, dated 17th August 1864.

From Acting Judge, Sholapoor, No. 1307, dated 16th November 1864.

From Munsif of Sholapoor, dated 6th September 1864.

From Civil Judge, Vizagapatam, No. 337, dated 20th December 1864.

From Acting Judge of Chittoor Court of Small Causes at Vellore, No. 223, dated 23rd December 1864.

From Civil Judge of Vizagapatam, dated 20th December 1864.

Remarks by District Munsif of Vizagapatam.

Report by the Judges of the High Court, Madras.

From Secy. to Govt., Punjab, No. 55, dated 11th January 1865.

From Judicial Commr., Punjab, No. 373, dated 8th August 1863.

Rulings of the Court of Sadr Diwani Adalat, N. W. P., during the first six months of 1864.

Rulings of ditto ditto during the first six months of 1864.

From Sadr Amin of 24-Pergunnahs, dated 5th December 1864.

Remarks by Acting Civil Judge of Bellary, dated 27th January 1865.

Remarks and suggestions by District Munsif of Purghee in the Zillah of Bellary, dated 11th August 1864.

Notes by District Munsif of Bimlipatam, dated 25th January 1865.

From Under-Secy. to Govt., Bombay, No. 211, dated 26th January 1865.

From Registrar, High Court, Bombay, No. 1350, dated 15th December 1864.

From Judge of Dharwar, No. 1504, dated 3rd December 1864.

## THE CODE OF CIVIL PROCEDURE.

### ARRANGEMENT OF CHAPTERS AND SECTIONS.

#### CHAPTER I.

##### PRELIMINARY.

###### Section.

1. Short Title.
2. Interpretation Clause.
3. Sections of the Code extending to Small Cause Courts and Revenue Courts.
4. Enactments and Rules repealed.

#### CHAPTER II.

##### OF THE JURISDICTION OF THE COURTS.

5. Courts to try all civil suits unless specially barred.
6. Court not to try suit in which matter at issue has been heard and determined between same parties.
7. Appeals, revisions and new trials to be according to rules of Code.
8. No person exempt from jurisdiction by reason of descent or place of birth.
9. Persons entitled to sue.  
Suits by personal representatives. Trustees of express trusts, next friends of Lunatics or Idiots, Guardians or next friends of Infants.
10. Jurisdiction of Courts.
11. Suits against Government.
12. Suits against Secretary of State.
13. Court in which suit to be instituted.
14. Transfer of suits.
15. High Court may transfer suits and appeals.
16. Suit to include the whole claim.  
Relinquishment of part of claim.
17. Joinder of several claims in the same suit.
18. Court may in certain cases order separate trials of such claims.
19. Claims for immovable property and for meane profits may be deemed to be founded on distinct causes of action.
20. Suits for immovable property situate in single District, but within jurisdictions of different Courts.
21. Suits for immovable property situate in different Districts.

###### Section.

22. Suits for immovable property situate in Districts subject to different High Courts.
23. Suit for immovable property situate on border of local jurisdiction of the Court and alleged by defendant to be within another local jurisdiction.
24. Suit for specific performance of one act in case of contract to perform separate or successive acts.
25. Specific performance of contract requiring for complete performance more than five years.
26. Declaratory suit.

#### CHAPTER III.

##### GENERAL RULES.

27. Appearances, acts and applications may be in person, by recognized agent or by Advocate.
28. Each of several plaintiffs or defendants may authorize any other to appear, plead and act for him.  
Authority to be in writing, signed and filed.
29. Recognized agents.  
1st.—Persons holding powers of attorney from parties out of jurisdiction.  
2nd.—Persons carrying on trade or business for parties out of jurisdiction.  
3rd.—Persons authorized to act for Government.  
4th.—Persons specially appointed by Government to prosecute or defend a suit for any Prince or Chief.  
5th.—Persons specially authorized by infirm persons to appear, sue, or defend.  
6th.—Persons specially authorized to act for women exempt from appearing.
30. Service of process on recognized agent.
31. Appointment of Advocate.
32. Service of process on Advocate.
33. Service of process on a party who has not appointed an Advocate to act for him.
34. Agent to receive process.  
His appointment to be in writing and to be filed in Court.
35. Agent of Government to receive process.
36. If there be no Government Advocate specially appointed.

*Section.*

87. Officers or Soldiers who cannot obtain leave may authorize any person to sue or defend for them.  
Authority to be in writing, countersigned by Commanding Officer, and filed.
88. The person so authorized may act personally or appoint an Advocate.
89. Service on person so authorized or on his Advocate, to be good service.
40. Suits by and against Infants.

*Exemption from Personal Appearance.*

41. Exemption of certain women from personal appearance.
42. Local Government may exempt certain persons from personal appearance.
43. List of names of persons exempted to be kept in the District Court.

*Service of Process.*

44. Proof of due service and delivery of process sent by post.
45. Process to be served at expense of party issuing it.  
Costs of service of process.
46. Payment of cost of summons.
47. Service within limits of local jurisdiction of High Courts, of process issued by Courts without those limits.
48. Examination to be on oath or affirmation.
49. Court may order any document to be impounded.
50. When security is required a deposit may be made instead.
51. Punishment for verifying false plaint, statement, or declaration.
52. On disposal of applications Court may either award costs or reserve their consideration.

CHAPTER IV.

OF A SUIT TILL DECREE.

*Of the Institution of Suits.*

53. Suits to be commenced by plaint containing certain particulars.
54. Plaint to be subscribed and verified.
55. In case of plaintiff's inability to subscribe and verify the plaint.
56. In suits by Government or Secretary of State.
57. In suits by a Corporation or Company.
58. Cases in which the plaint may be rejected or amended.
59. Cases in which the plaint shall be returned to be presented in the proper Court.
60. Cases in which the plaint shall be rejected.
61. Procedure where there are several defendants, some of whom dwell without the jurisdiction.
62. When rejection of plaint does not preclude presentation of fresh plaint.
63. When security for costs is to be furnished by plaintiff at the time of presenting the plaint.
64. When security for costs may be required from the plaintiff at any stage of suit.
65. Procedure in a suit for immovable property in different jurisdictions.
66. When the plaint is admissible, particulars to be entered in the Register.  
Form of the Register.
67. Written document on which plaintiff sues, if in his own possession or power, to be produced when plaint is presented.  
And copy filed with plaint.  
If plaintiff wish, original may be filed instead of copy.  
List of other documents relied on to be entered at foot of plaint.
68. Shop-book, &c., to be produced.
69. Original document to be marked and returned.
70. Document not produced when plaint filed inadmissible in evidence without leave of Court.
71. Procedure to compel production of document in possession of defendant.

*Of summoning the Defendant.*

*Section.*

72. On plaint being registered, summons to issue to defendant to appear and answer on a specified day.
73. Court may order defendant or plaintiff to appear in person.
74. Court may order personal appearance of a Director, Secretary or other Officer in suits against a Corporation or Company.
75. No party to be ordered to appear in person unless resident within 50 miles.  
Or within the local jurisdiction of the Court.  
Or unless there be railway communication.
76. Summons to be either to settle issues, or for final disposal.
77. In cases cognizable in Small Cause Courts, summons to be for final disposal.
78. Fixing day for appearance of defendant.
79. Summons to appear and answer shall order defendant to produce documents required by plaintiff or relied on by defendant.
80. On issue of summons for final disposal, parties to be directed to produce their witnesses.
81. Form of summons.

*Service of Summons on the Defendant.*

82. Summons shall be served by Officer of Court.
83. Mode of service.
84. When there are several defendants.\*  
Where they are partners.
85. Service to be on defendant in person, when practicable, or on duly empowered agent.
86. Service on agent by whom defendant carries on business.
87. If defendant cannot be found and has no agent, service may be made on a male member of his family.
88. Person served to endorse the summons.  
Service sufficient though copy not affixed.
89. If the summons cannot be served, copy to be fixed on house.
90. If defendant do not dwell in place mentioned, summons to be returned with endorsement of non-service.  
Service in place within local limits other than that mentioned.
91. Endorsement of time and manner of service.
92. When summons is returned unserved, Court to order substituted service if satisfied that defendant is avoiding service.
93. Service of summons when defendant resides within jurisdiction of another Court and has no agent to accept service.
94. Service of summons on defendant in jail.
95. Procedure if jail be in a different district.
96. Service of summons when defendant resides out of British India and has no agent to accept service.
97. Service through a British Resident or Agent of Government.
98. Time for appearance under Sections 96 and 97.  
In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.
99. In suits for immovable property, service on agent in charge.
100. Service on Government servants.
101. Service on Officers and Soldiers.
102. Service on a Corporation or Company.
103. Substitution of letter for summons.
104. Mode of sending such letter.

*Of Suits against Government and Public Officers.*

105. Service on Government Advocate.
106. Appearance and answer by Secretary of State or Government.
107. In suits against Government Officers for alleged official acts, summons to be served on them as provided in Section 100.
108. Court may grant extension of time to enable Officer to make reference to Government.
109. If Government undertake defence, Government Advocate to appear and apply that note of his appearance be entered in Register.

*Section.*

110. If no such application made, case to proceed as in suit between private parties. But defendant not liable to arrest before judgment.
111. Exemption of Government Officers from personal appearance.

*Of making Persons not before the Court Parties to a Suit.*

112. Court may direct that persons appearing to be interested in a suit shall be made parties and may cause notices to be served on them.

*Of Arrest before Judgment.*

113. In suits for movable property, when defendant is about to leave the jurisdiction, &c., plaintiff may apply that security be taken.
114. Order to bring up defendant to show cause why he should not give security.
115. If defendant fail to show cause, Court may order him to make deposit or give security.
116. Procedure where defendant fails to do so.
117. Procedure in case of application by surety to be discharged.
118. Defendant to be imprisoned if he cannot give security.
119. Compensation where defendant arrested or suit instituted on insufficient grounds. Limit to compensation. Compensation to bar suit for damages.
120. When defendant is about to leave India, similar application for security may be made.

*Of Attachment before Judgment.*

121. Application before judgment for security from defendant to fulfil decree, and in default, for attachment of his property.
122. Contents of application and declaration.
123. Court may call on defendant to furnish security or show cause.
124. Attachment if cause not shown or security not furnished.
125. Withdrawal of attachment.
126. Mode of making attachment.
127. Investigation of claims to property attached before judgment.
128. Removal of attachment when security furnished.
129. Compensation for obtaining attachment or instituting suit on insufficient grounds. Limit to compensation.
130. Attachment not to affect rights of strangers or bar decree-holder from applying for sale.
131. Court may stay sale of property already under attachment, when execution of a decree fraudulently obtained is applied for.
132. Case in which party may be put in immediate possession of land the subject of suit.

*Of ex parte Orders to perform a Contract.*

133. *Ex parte* order for specific performance of registered contract.
134. Enforcement of order.

*Of Injunctions.*

135. Cases in which an injunction to stay waste may be granted.
136. Before granting injunction, Court may direct notice to be given to opposite party.
137. Receiver or manager of immovable property.
138. When the Collector may be appointed receiver.
139. Injunction to restrain commission, repetition or continuance of breach.
140. Order for injunction may be discharged, varied or set aside.
141. Compensation to defendant for issue of injunction or institution of suit on insufficient grounds. Limit to compensation.
142. Execution of award of compensation.

*Of the Withdrawal and Adjustment of Suits.*

143. Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

*Section.*

144. Law as to limitation of actions not affected by the first suit.
145. Compromise of suits.
146. Court may grant certificate for refund of half stamp duty on plaint if suit be adjusted. Proviso.

*Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.*

147. No abatement by party's death if cause of action survive.
148. Procedure in case of death of one of several plaintiffs or defendants, if cause of action survive.
149. Procedure in case of death of one of several plaintiffs where cause of action survives to survivors and representative of deceased.
150. Procedure where no application made by representative of deceased plaintiff.
151. Procedure in case of death of sole, or sole surviving, plaintiff.
152. Abatement where no application by representative of deceased plaintiff.
153. Procedure in case of dispute as to representation of deceased plaintiff.
154. Procedure in case of death of one of several defendants, or of sole, or sole surviving, defendant.
155. Suit not abated by marriage of female party.
156. Plaintiff's bankruptcy or insolvency not to abate suit unless Assignee refuse to proceed and give security for costs.

*Of Notices to produce Documents.*

157. Notice to produce documents. When served, may have force of summons.

*Of the Appearance of the Parties and Consequence of Non-appearance.*

158. Parties to appear on day fixed in summons for defendant to appear and answer.
159. Dismissal of suit where summons not served in consequence of plaintiff's failure to deposit costs of issuing it. Unless defendant shall have entered appearance.
160. If neither party appear, suit to be dismissed.
161. In such case plaintiff may bring fresh suit. Or Court may issue fresh summons.
162. Procedure if plaintiff only appear. If summons issued for final disposal, decree *ex parte* may be passed.
163. If defendant appear on day of adjourned hearing, and assign good cause for previous non-appearance, he may be heard.
164. If plaintiff only appear, and due service of summons be not proved, Court may order issue of second summons.
165. If plaintiff only appear, and it be proved that summons was served, but not in due time, Court may adjourn hearing and direct notice to be given to defendant.
166. If defendant only appear, Court to make decree by default against plaintiff, unless defendant admit claim.
167. Bar of fresh suit by decree against plaintiff by default.
168. Procedure in case of non-attendance of one or more of several plaintiffs.
169. Procedure in case of non-attendance of one or more of several defendants.
170. Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person.
171. Court to receive written declaration in support of cause shown for failure to appear.
172. Setting aside decree *ex parte* against defendant.
173. Setting aside decree by default against plaintiff.
174. No decree to be set aside without notice to opposite party.
175. Order for setting aside decree to be final.

*Of Payment into Court.**Section.*

176. Deposit by defendant of amount considered by him to be in full satisfaction of claim, with costs up to date.  
Notice of deposit.  
Interest on sum deposited not allowed to plaintiff after receipt of notice.
177. Plaintiff may proceed for sum claimed in excess of amount deposited by defendant.

*Of Written Statements.*

178. Written statements.
179. Written statements to be on stamp paper.
180. Particulars of set-off to be given in a written statement.
181. No written statement to be received after first hearing, unless called for by Court.  
Court may at any time call for written statement.
182. Form of written statements.
183. Written statements to be subscribed and verified.
184. Procedure when party fails to present written statement called for by Court.
185. Court may reject written statement which is argumentative, prolix or irrelevant.

*Of the Examination of the Parties at the first Hearing.*

186. Oral examination of party or companion of himself or his Advocate.  
Substance of examination to be written.
187. Consequence of refusal of party to answer.
188. Consequence of refusal or inability of Advocate to answer.

*Of the Production of Documents.*

189. Documentary evidence to be produced at first hearing.
190. Documents to be received by Court.  
Rejection of irrelevant or inadmissible documents.
191. Admitted documents to be marked and filed.  
Entries in shop-books.
192. Rejected documents to be marked and returned.  
Unless detained by Court.
193. Court may receive in evidence unstamped documents on payment of proper stamp duty and penalty.
194. Entry of payments under preceding Section to be made in book and endorsed.
195. Judge to make monthly return to Collectors, of stamp duty received by Court.  
Contents of return.
196. Collector to stamp document duly endorsed under Section 194.
197. After lapse of time for appeal, document admitted in evidence may be returned.
198. If no appeal, document may be returned as soon as decree is made.
199. Document may for special reasons be returned before time limited.
200. Document not to be returned in certain cases.
201. Certified copy to be kept.
202. Receipt to be given for returned document.
203. Court may send for papers from its own records or from other public Offices or Courts.  
Except State papers.

*Of the Settlement of Issues.*

204. Framing of Issues.
205. Issues may be framed from oral statements of parties and others.
206. Court may examine witnesses or documents before framing issues.
207. Amendment of issues.  
Additional issues.

*Of Issues by Agreement of Parties.*

208. Questions of fact or law may by agreement be stated in the form of an issue.
209. Court, if satisfied that the agreement was executed *bonâ fide*, may give judgment.

*When the Suit may be disposed of at the first Hearing.**Section.*

210. If the parties are not at issue on any question of law or fact.
211. If one of several defendants be not at issue with the plaintiff on any question of law or fact.
212. If the parties are at issue on questions of law or fact.  
Court may determine the issues and give judgment.
213. If either party fails to produce his evidence,  
Court may make decree.
214. Procedure where Court cannot give judgment at first hearing.

*Of Adjournments.*

215. Court may grant time, or adjourn hearing.  
Costs of adjournment.  
Adjournment when hearing of evidence has once begun.
216. Procedure if parties fail to appear on day fixed.
217. Court may proceed notwithstanding either party fails to produce proofs or witnesses.

*Of summoning Persons to give Evidence or produce Documents.*

218. Summons to attend to give evidence or produce documents.
219. Expenses of witnesses to be paid into Court on applying for summons.
220. Scale of expenses.
221. Tender of expenses to witness.
222. Procedure where insufficient sum paid in.
223. Expenses if witness detained more than one day.
224. Time, place and purpose of attendance to be specified in summons.
225. Summons to produce a document.
226. Form of summons to give evidence or produce documents.

*Of Service of Summons on Persons required to give Evidence or produce Documents.*

227. How and when summons shall be served.
228. Service to be made in sufficient time before date of attendance.
229. Service to be on witness, or adult male member of his family.
230. When summons cannot be served, to be returned to Court.
231. Time and manner of service to be endorsed on summons.
232. Service of summons on witness resident in another jurisdiction.
233. Attachment of property of absconding witness.
234. If witness appears, attachment may be withdrawn.
235. Procedure if witness fails to appear.

*Of the Examination of Parties as Witnesses.*

236. Party appearing in person may be examined as a witness.
237. Special application to enforce appearance of party as witness.
238. Court may first give notice fixing a day to show cause why he should not appear.
239. Written declaration in support of cause shown.
240. If no sufficient cause shown, order to issue.
241. Court may of its own accord summon and examine any party as a witness.

*Of the Examination by the Court of Strangers to the Suit.*

242. Court may of its own accord summon as witnesses strangers to suit.

*Of Questions respecting Religion or Custom.*

243. Provision as to question arising in Court subordinate to District Court, relating to the law of the religion or established customs of any suitor.
244. Procedure of District Court when such question referred to it.
245. And when arising in suit pending in such Court.



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- 246. Procedure of High Court as to such questions, either referred or arising in suit pending in such Court.
- 247. Court referring any such question to stay decision pending receipt of opinion of higher Court.
- 248. Hearing of reference by Court to which it is made.
- 249. Transmission of decision of Court, and proceeding thereupon.
- 250. Decision of High Court to be communicated through District Court to subordinate Court.
- 251. Costs of reference.
- 252. Procedure where case in which a District Court shall have given an opinion comes on appeal before such Court.
- 253. High Court not bound in appeal by opinion given on reference.
- 254. Questions referred to High Court to be determined by two or more Judges.

*Of the Attendance of Witnesses and the Consequence of Non-attendance.*

- 255. Persons summoned to give evidence must attend.
- 256. Consequences of non-attendance by witness.
- 257. Consequences of refusal to give evidence or produce documents.
- 258. Consequences of party's non-attendance or refusal to give evidence or produce documents.
- 259. Any person present in Court may be called upon to give evidence though not summoned.

*Of the Examination of Witnesses.*

- 260. Witnesses to be examined at the hearing in open Court.
- 261. A witness may for sufficient cause be examined immediately.
- 262. How evidence shall be taken in appealable cases.
- 263. Local Government may direct evidence to be taken down by Judge in his vernacular language.
- 264. When witness may require his deposition to be interpreted.
- 265. When evidence may be taken in English.
- 266. Any particular question and answer may be taken down.
- 267. Questions objected to.
- 268. Court may record remarks on demeanour of witnesses.
- 269. Memorandum when evidence is not taken down by Judge.
- 270. Memorandum of evidence in unappealable cases.
- 271. Judge unable to make such memorandum to record reason of his inability.

*Of Commissions to examine absent Witnesses, to make local Enquiries, and to investigate Accounts.*

- 272. Witness not bound to appear if residing beyond a certain distance from Court.
- 273. Reasons to be recorded of order for attendance of witness at a distance exceeding 50 miles.
- 274. Cases in which Court may issue Commission to examine witness.
- 275. Order for Commission may be made either on application of parties or by Court of its own accord.
- 276. When witness resides within the Court's jurisdiction.
- 277. When witness resides beyond the Court's jurisdiction but in British India.
- 278. When witness is within local limits of the ordinary original Civil jurisdiction of a High Court.
- 279. When witness is not within British India but within territories of friendly Native Prince or State.
- 280. When witness is not in British India nor within territories of friendly Native Prince or State.
- 281. Commission to examine witness in jail.
- 282. Persons in whose presence such examination to be held.

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- 283. Commission to examine witness in jail outside local limits.
- 284. Commission when executed to be returned to Court issuing it with depositions of witnesses.
- 285. When depositions may be read in evidence.
- 286. Court may dispense with proof of circumstances mentioned in last Section.
- 287. Commission to make local investigation.
- 288. Appointment of Government Officer as Commissioner.
- 289. Commissioner may examine parties and witnesses and call for papers.
- 290. Report and depositions to be evidence in suit. Commissioner may be examined in person.
- 291. Commissioner to investigate and adjust accounts.
- 292. Court to give Commissioner necessary instructions.
- 293. Proceedings of Commissioner may be received in evidence, but Court may make further enquiry if dissatisfied.
- 294. Expenses of Commission to be paid into Court.
- 295. Attendance, examination and punishment of witnesses summoned by Commission.
- 296. Procedure *ex-parte* where parties do not appear.

*Of Assessors.*

- 297. In certain Courts, suits may be heard before Assessors.
- 298. Opinion of Assessors how to be recorded. Not to be binding on Judge.

*Of the Oath of the Parties.*

- 299. Power to decide suit on statement on oath.

*Of Judgment and Decree.*

- 300. When judgment to be pronounced. Judgment to be pronounced in open Court.
- 301. Judgment to be written in Judge's vernacular language. When Judge is acquainted with English.
- 302. Translation of judgment.
- 303. Judgment to be dated and signed.
- 304. Contents of judgments of Small Cause Courts. Of judgments of other Courts.
- 305. Court to state its decision on each issue. Exception.
- 306. Judgment to direct by whom costs are to be paid.
- 307. Costs may be set-off against sum admitted to be due.
- 308. Interest on costs. Costs may be charged on subject-matter of suit.
- 309. Date of decree.
- 310. Contents of decree.
- 311. Decree for recovery of portion of immovable property.
- 312. Memorandum of such decree to be sent to District Registrar.
- 313. Decree for delivery of movable property.
- 314. Circumstances in which specific performance may be enforced.
- 315. Decree in alternative for damages in suit for specific performance.
- 316. Damages when contract not specifically performed. Adequacy of consideration. Certainty required.
- 317. Decree in alternative for specific performance in suit for damages for breach of contract.
- 318. In suits for money, decree may order interest to be paid on principal sum adjudged.
- 319. Payment by instalments.
- 320. In suits for land, Court may decree payment of mesne profits with interest.
- 321. Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.
- 322. If set-off be allowed. Effect of decree.
- 323. If decree be for a sum of money not exceeding 1,000 Rupees, Court may direct immediate execution.
- 324. Warrant against personal property may be general or special.

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Certified copies of decree and judgment to be furnished.

## CHAPTER V.

## OF THE EXECUTION OF DECREES.

Decree for immovable property.  
Decree for a specific movable.

- 328. Enforcement, by attachment or imprisonment, of decree for specific performance.
- 329. Payment of money ordered to be paid under Section 313, 315 or 316.
- 330. Enforcement of decree for money.
- 331. Enforcement of decree for money against a plaintiff.
- 332. Decree for execution of conveyances, or endorsement of negotiable instruments.
- 333. Form and effect of execution of conveyance, or endorsement by Court.
- 334. If decree be against Government or Officer on behalf of Government.
- 335. Decree against representative of deceased person for money to be paid out of deceased's property.
- 336. Decree against surety.
- 337. Property liable to attachment and sale in execution of decree.
- 338. Payment of monies under decree to be made into Court.
- 339. Adjustment of decree to be made through Court.

*Application for Execution.*

- 340. Application for execution.
- 341. Any one of several decree-holders may apply.
- 342. Application by transferee of decree.
- 343. Cross-decrees.
- 344. Stay of execution pending suit between decree-holder and judgment-debtor.
- 345. If person against whom decree made die before execution, application may be made against his representative or estate.
- 346. Notice of application to be given to representative.
- 347. Execution of decree against representative.
- 348. Form of application for execution of decree.
- 349. Further particulars when application is for attachment of immovable property.
- 350. In certain cases application to be accompanied by extract from Collector's Register.
- 351. Application for attachment of moveable property may be general, or may be accompanied with inventory of property to be attached.
- 352. Procedure on receiving application for execution of decree.
- 353. Procedure if particulars do not correspond with decree.
- 354. If application admitted, execution ordered.

*Measures required in certain Cases preliminary to the Issue of the Warrant.*

- 355. When notice to show cause why decree should not be executed shall be issued. When such notice dispensed with.
- 356. Procedure after issue of notice.
- 357. On application for a general attachment of moveable property security may be required.
- 358. Before granting order, Court may make enquiries as to the property to be attached.
- 359. Court may summon and examine other persons as to property liable to be seized.

*Issue of the Warrant.*

- 360. Warrant when to issue.
- 361. How to be dated, signed, &c.
- 362. Warrant for arrest to direct defendant to be brought up.
- 363. Latest day for return of warrant to be specified.
- 364. Endorsement on warrant.

*Of the Execution of Decrees for immovable Property.*

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- 365. Delivery of immovable property when in occupancy of defendant or of some person under him.
- 366. Delivery of immovable property when in occupancy of tenant.
- 367. Partition of estate or separation of share.
- 368. Procedure in case of obstruction to execution of decree for immovable property.
- 369. Procedure in case of obstruction by defendant or at his instigation.
- 370. Procedure when obstruction continues.
- 371. Procedure in case of obstruction by a *bona fide* claimant, other than defendant.
- 372. Procedure in case of person dispossessed of property disputing right of decree-holder to be put into possession.
- 373. Orders passed under Sections 371 and 372 to have the force of a decree, and to be subject to regular appeal.

*Of the Execution of Decrees for Money by Attachment of Property.*

- 374. Attachment of property in execution of decree for money.
- 375. Attachment of moveable property in possession of defendant.
- 376. Attachment of moveable property of defendant subject to lien.
- 377. Attachment of debts and shares.
- 378. Attachment of immovable property.
- 379. Prohibitory order in case of moveable property not in defendant's possession.
- 380. And in case of immovable property.
- 381. Attachment of money or securities in deposit in a Court of justice or with a Government Officer.
- Determination of question as to title or priority.
- 382. Attachment of negotiable instruments.
- 383. Notification of prohibitory order in case of debt.
- 384. And in case of shares in a Company or Corporation.
- 385. Private alienation of property after attachment to be void.
- 386. Payment by a debtor who has been prohibited from making payment to his creditor.
- 387. Court may direct money or bank-notes attached to be paid to party entitled.
- 388. Or that immovable or moveable property attached be sold, and proceeds be so paid.
- 389. Court may postpone sale of land to enable defendant to raise amount of decree by mortgage, lease or private sale of a portion.
- 390. When property attached consists of debts or immovable property, manager may be appointed.
- 391. Remuneration, powers, and duties of manager.
- 392. When Court may authorize Collector to stay public sale of land.
- Court may order security to be taken.
- 393. Special rules in force in any place, in respect to sales of land in execution of decrees for money, may be continued or altered by Local Government.
- 394. Order for withdrawal of attachment after satisfaction of decree.

*Of Claims to attached Property.*

- 395. Investigation of claims and objections to sale of attached property.
- 396. When Court to order release of property from attachment.
- 397. When Court to disallow claim to release of property attached.
- 398. Person against whom order is passed under Section 396 or 397 may sue within one year to establish his right.
- 399. Claims and objections to be made without delay.
- 400. If claim or objection be disallowed, claimant or objector may sue.

*Of Sales in Execution of Decrees.*

- 401. Sales by whom to be conducted and how made.
- 402. Saving as to negotiable securities and shares in public companies.

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- 403. Sale by Collector of lands paying revenue.
- 404. Proclamation of sales by public auction.
- 405. Mode of making proclamation.
- 406. Time of sale.
- 407. Process for attachment and sale may in certain cases be simultaneous or otherwise.
- 408. Payment for movable property sold.
- 409. If decree-holder purchase, amount of decree may be taken as payment.
- 410. Irregularity not to vitiate sale of movable property, but person injured may sue for damages.
- 411. Deposit by purchaser of immovable property. Time for payment in full.
- 412. Procedure in default of payment. Defaulting purchaser answerable for loss by re-sale.
- 413. Co-sharer of share of an undivided estate sold in execution of decree may claim to take share at sale price. Claim to be made before sunset of day of sale.
- 414. Notification on re-sale of immovable property.
- 415. Confirmation of sale.
- 416. Sale not to be set aside on ground of irregularity unless substantial injury proved.
- 417. Effect of objection being disallowed and of its being allowed.
- 418. If sale set aside, price to be returned to purchaser.
- 419. Certificate to be granted to purchaser of immovable property.
- 420. Certificate to state the name of actual purchaser. Benámi purchaser not recognized.
- 421. Delivery of movable property belonging to defendant actually seized.
- 422. Delivery of movable property to which defendant is entitled subject to lien.
- 423. Delivery of immovable property in the occupancy of defendant.
- 424. Delivery of immovable property in the occupancy of tenant.
- 425. Delivery of debts and of shares in public Companies.
- 426. Delivery of negotiable instruments of which actual seizure has been made.
- 427. Transfer of negotiable instruments and shares.
- 428. Defendant resisting or obstructing purchaser in obtaining possession of immovable property.
- 429. Obstruction by claimant other than defendant.
- 430. Attaching creditor to be first paid out of proceeds of property sold.
- 431. Surplus to be rateably distributed among decree-holders who have taken out execution prior to order for distribution. Proviso where property is sold subject to a mortgage.
- 432. Court may order proceeds of property attached under a decree obtained fraudulently, to be paid in satisfaction of another decree.

*Of Arrest in Execution of Decrees for Money.*

- 433. Grounds of application for discharge.
- 434. Form of application. Verification of application.
- 435. Procedure on application for discharge by a person arrested in execution of a decree for money.
- 436. Pending enquiry, defendant may be left in custody or released on good security.
- 437. Defendant liable to be again arrested for fraudulent concealment of property, &c.

*Of the Execution of Decrees by Imprisonment.*

- 438. Place of defendant's imprisonment.
- 439. Defendant's subsistence-money.
- 440. Court may vary allowance in case of illness or for other special cause.
- 441. Subsistence-money to be added to amount of decree.
- 442. Release of defendant.
- 443. Imprisonment not to exceed two years. Or six months if sum decreed do not exceed 500 rupees. Or three months if not exceeding 50 rupees.
- 444. Application for discharge.
- 445. Contents of application. Verification of application.

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- 446. Procedure on such application.
- 447. In what case defendant to be discharged.
- 448. If fraud or concealment proved, debtor's imprisonment may be extended to two years. And he may be further dealt with criminally.
- 449. Though defendant discharged, his property liable for the decree.
- 450. When Court may declare defendant absolved from further liability.
- 451. Determination of questions regarding amount of mesne profits and interest and sums paid in satisfaction of decrees.

*Of Payment of the Amount of Decrees for Money by Instalments.*

- 452. Court may order payment by instalments.

*Of Service of Process in Military Cantonments.*

- 453. Service of process in Cantonments, Garrisons and Military Stations.

*Of Execution of a Decree beyond the local Limits of the Jurisdiction of the Court by which it was passed.*

- 454. Decree of one Court may be executed within the jurisdiction of another Court. Proviso as to Small Cause Courts.
- 455. Application for such execution.
- 456. Copy of decree and order for execution to be sent.
- 457. Court receiving copies of decree, &c., to file same without proof.
- 458. Transmitted copy of decree or order to have same effect as decree of Court to which it is sent for execution.
- 459. Enforcement of execution by Court applied to.
- 460. Execution by High Court of decree transmitted by other Court. Proviso as to Small Cause Courts.
- 461. Power of Court applied to by decree-holder in executing decree.
- 462. Wrongful acts or irregularities in executing decree to be punished by Court applied to.
- 463. Court applied to may in certain cases stay execution, &c.
- 464. Before making any order under last Section, Court may require security from, or impose conditions upon, defendant.
- 465. Order of Court passing decree or of Appellate Court to be binding upon Court applied to.
- 466. Liability of defendant discharged, to be re-taken.
- 467. Appeal from orders for execution of decrees of other Courts.

*Of the Enforcement of registered Bonds.*

- 468. Enforcement without suit, of bonds registered under Act XVI of 1864. Proviso.
- 469. But application for enforcement must be made within a period fixed.
- 470. Court to which application may be made for enforcing bonds.
- 471. Application to be treated as for execution of a decree.
- 472. Procedure of Court on receipt of application.
- 473. Attachment may issue against debtor about to quit jurisdiction, or to move property therefrom.
- 474. Chapter IV applicable to attachments applied for.
- 475. Compensation to person against whom claim is made, if arrest or attachment of property be applied for on insufficient grounds. Limit to compensation.
- 476. Award of compensation to bar suit for damages.
- 477. Procedure when person against whom execution is claimed appears and shows cause against issue of execution.
- 478. Pleas in bar of execution.
- 479. Court may direct institution of suit, instead of enforcing bond under Section 468.
- 480. Effect of Court refusing to enforce bond under Section 468 or 469.
- 481. Foregoing provisions not to bar suit by obligee.
- 482. Attendance, examination and punishment of witnesses.

## CHAPTER VI.

## OF PAUPER SUITS.

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483. Suits may be brought *in forma pauperis*.  
 484. What suits excepted.  
 485. Application to be by petition on stamp paper.  
 486. Contents of petition.  
 487. Presentation of petition.  
 Petitions of certain females may be presented by agent.  
 488. Rejection of petition.  
 489. Examination of petitioner.  
 If presented by Agent, Court may order petitioner to be examined by Commission.  
 490. Rejection of application.  
 491. Notice to opposite party if application not refused.  
 492. Procedure at hearing.  
 493. Summons to witness.  
 494. Court may institute local enquiry.  
 495. Procedure if application admitted.  
 496. Recovery of plaintiff's *diwes* Stamp duty.  
 497. Refusal to allow petitioner to sue as pauper, to bar subsequent application of like nature.  
 498. Attendance, examination and punishment of witnesses.

## CHAPTER VII.

## REFERENCE TO ARBITRATION.

499. Parties to suit may apply for order of reference.  
 500. Application.  
 501. Nomination of arbitrator.  
 502. When Court to nominate arbitrator.  
 503. Order of reference.  
 504. When reference is to two or more, order to provide for difference of opinion.  
 505. In case of death, incapacity, or refusal or neglect to act, of arbitrators or umpire, Court to appoint others.  
 506. Umpire, if not appointed by arbitrators, may be appointed by Court.  
 507. Powers of arbitrator or umpire appointed under Section 505 or 506.  
 508. Summoning witnesses.  
 Punishment for default, &c.  
 509. Extension of time for making award.  
 510. When umpire may arbitrate in lieu of arbitrators.  
 511. Award to be signed and filed.  
 512. Arbitrator or umpire may state special case.  
 513. Court may, on application, modify or correct award in certain cases.  
 514. And make order respecting costs of arbitration.  
 515. Cases in which award or matter referred to arbitration may be remitted.  
 516. Grounds of setting aside award.  
 Proviso as to delay.  
 517. Application to set aside award.  
 518. Judgment to be according to award.  
 519. Agreement of parties to refer to arbitration may be filed in Court.  
 520. Application to be stamped, numbered, and registered.  
 521. Notice to show cause against filing it.  
 522. If no cause shown, agreement to be filed, and an order made thereon.  
 523. Provisions of this Chapter applicable to proceedings under order of reference.  
 524. Filing award in matter referred to arbitration without intervention of Court.  
 Application to be stamped, numbered and registered.  
 Notice to parties to arbitration.  
 525. Filing and enforcement of such award.

## CHAPTER VIII.

## OF PROCEEDINGS ON AGREEMENT OF PARTIES.

526. Parties interested in questions of fact or law may agree to abide by finding of Court thereon.

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527. Agreement to state value of subject-matter.  
 528. Agreement to be filed and numbered as a suit.  
 529. Parties to be subject to Court's jurisdiction.  
 530. Hearing and disposal of the case.

## CHAPTER IX.

## OF REGULAR APPEALS.

531. Regular appeal to lie from all decrees, except when expressly prohibited.  
 532. Appeal to High Court to be heard by two or more Judges.  
 533. Decision when appeal heard by two Judges only, and they differ.  
 534. Decision when appeal heard by more than two Judges, and they differ.  
 535. Appeal to Court consisting of a single Judge.

*How Regular Appeals are to be preferred.*

536. Form of appeal and time for presentation.  
 537. Memorandum of appeal.  
 538. Appellant confined to grounds set out.  
 539. Form of memorandum.  
 540. Memorandum of appeal to the High Court may be general.  
 In such case grounds of objection to be subsequently filed.  
 541. Time for filing grounds of objection may be extended.  
 542. Separate grounds of objection to be on stamp paper.  
 543. Sections 537, 538, and 539 to apply to grounds of objection when filed separately.  
 544. Effect of memorandum not being presented in time.  
 545. Effect of grounds of objection not being filed in time.  
 546. Rejection of memorandum or grounds of objection for informality or want of proper stamp.  
 547. One of several plaintiffs or defendants may obtain a reversal of the whole decree if it proceed on a ground common to all.  
 548. Court may adjourn hearing and direct that persons appearing to be interested shall be made parties.

*Of staying and executing Decrees under Appeal.*

549. Execution of decrees not to be stayed solely by reason of appeal, but on sufficient cause shown.  
 550. Security required before making order to stay execution.  
 551. Security in case of order for execution of a decree appealed against.  
 552. But Court may stay execution on such terms as it may think proper.  
 553. No such security to be required from Government or Public Officers.

*Of Procedure in Appeal from Decrees.*

554. Registry of memorandum of appeal.  
 Form of Register.  
 555. Appellate Court may require appellant to give security for costs.  
 When appellant resides out of British India.  
 556. Appellate Court to give notice to Court whose decree is appealed against.  
 Transmission of papers to Appellate Court.  
 557. Either party may have copies of exhibits made and deposited in Court whose decree is appealed against.  
 558. Day for hearing appeal.  
 559. Publication and service of notice of the day fixed for hearing appeal.  
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 560. Contents of notice.  
 Service of notice on Advocate.  
 561. Dismissal of appeal for appellant's default.  
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562. Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.  
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563. Re-admission of appeal dismissed for default.
564. Upon the hearing respondent may object to decree as if he had preferred a separate appeal.  
 Previous notice in writing of objections.
565. Judgment when and where to be pronounced.
566. In what language to be written.
567. When to be translated.
568. Contents of judgment.
569. Dissent to be recorded.
570. What judgment may direct.  
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571. No decree to be reversed or modified for error or irregularity.
572. Remand of case by Appellate Court.
573. Power to remand limited.
574. When evidence on record is sufficient, Appellate Court shall determine case finally.
575. When Appellate Court may frame issues and refer them for trial to Court whose decree is appealed against.
576. Finding and evidence to be put on record.  
 Objections to finding.
577. Parties not to produce additional evidence to Appellate Court, unless Court call for such evidence.
578. Additional evidence how taken.
579. Points to be defined and recorded.
580. Contents of decree.
581. Judge dissenting from judgment need not sign decree.
582. Copies of judgment and decree to be furnished to parties.
583. Certified copy of the decree to be transmitted to the Court whose decree is appealed against.
584. Appellate Court to have same powers as Courts of original jurisdiction.
585. Reference of question to High Court.
586. Court may pass decree contingent upon opinion of High Court.
587. Two or more Judges of High Court to hear reference.
588. High Court to fix day for hearing and to notify same.
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## AMENDED BILL.

*A Bill for consolidating and amending the Laws relating to the Procedure of the Courts of Civil Judicature in British India.*

Whereas it is expedient to consolidate and amend the laws relating to the Procedure of the Courts of Civil Judicature in British India; It is enacted as follows:—

CHAPTER I.  
PRELIMINARY.

**Short title.** 1. This Act shall be cited as "The Code of Civil Procedure."

**2.** In this Code, unless there be something repugnant in the subject or context—

**Interpretation Clause.**

Words importing the singular number include the plural, and words importing the plural number include the singular.

**Number.**

Words importing the masculine gender include females.

**Gender.**

"Person" includes any Company or Association or body of persons, whether incorporated or not.

**"Person."**

"Chapter" and "Section" respectively mean a Chapter and Section of this Code.

**"Chapter" and "Section"**

"Law" means any law or rule having the force of law for the time being in operation.

**"Law."**

"British India" denotes the Territories which are or may become vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better government of India."

**"British India."**

"Court" denotes any Judge acting judicially alone, and any body of Judges acting judicially as a body, lawfully exercising jurisdiction in Civil cases.

**"Court."**

"District" means the local limits of the jurisdiction of a principal Civil Court of original jurisdiction, and includes the local limits of the ordinary original Civil jurisdiction of a High Court.

**"District."**

"District Court."

"Subordinate Court" means any Court subordinate to a High Court.

**"Subordinate Court."**

"District Court" means the principal Civil Court of original jurisdiction in a District.

**"District Court."**

"Judge" denotes the presiding Judicial Officer in a Court of Civil Judicature, and includes an acting Judge.

**"Judge."**

"Collector" denotes every Officer performing the duties of Collector of Land Revenue.

**"Collector."**

"Advocate" includes every person having by law the right to appear and plead, or appear, plead and act in any suit, appeal or miscellaneous proceeding.

**"Advocate."**

"Proper Officer" means the person whose duty it is by law or any rule made by a High Court to attend to the particular matter indicated.

"Defendant" includes every person against whom a decree or order is passed or who is liable under a decree or order.

"Process" includes all summonses, notices, proclamations, warrants, writs and letters issued or sent under any of the provisions of this Code.

"Suit" means a suit instituted by a plaintiff under Section 53, up to and including the decree of the Court of first instance.

"Miscellaneous case" means any Civil case or proceeding not being a suit, and includes the proceeding in the execution of a decree.

"Regular Appeal" means an appeal from a decree passed in a suit, or from an order in a suit from which a regular appeal is allowed.

"Special Appeal" means an appeal from a decree passed or made in regular appeal.

"Appeal" means an appeal from an order passed in a suit from which an appeal is allowed, or from an order passed in a miscellaneous case.

"Judgment" denotes the grounds on which an order or decision is founded.

"Decree" means the order or decision by which a suit or regular or special appeal is determined so far as concerns the Court which passes the order or decision, and includes the judgment upon which the order or decision is founded. An order on regular or special appeal, remanding a suit for re-trial, is not within this definition.

"Costs" denotes the costs of all regular and necessary proceedings of either party in the suit, and includes such incidental costs as are or are directed to be costs in the suit. The costs of all interlocutory proceedings, unless the Court otherwise direct, are costs in the suit within this definition.

"Immovable Property" includes land, incorporeal tenements, and things attached to the earth or permanently fastened to any thing which is attached to the earth.

"Movable Property" means property of every description except immovable property.

"Bond" includes any written obligation for the payment of money.

"Document" denotes any matter expressed or described upon any substance by means of letters, figures or marks or by more than one of those means, in-

tended to be used, or which may be used, in evidence of that matter.

"Jail" means the Civil Jail of the District, or any place appointed by the Local Government for the confinement of persons under Civil process.

"Year" and "Month" respectively denote a year and month reckoned according to the British Calendar.

In any part of British India in which this Code operates, "Government" includes the Government of India as well as the Local Government of such part.

"Local Government" means the person authorized to administer the executive government in such part, or the chief executive Officer of such part when it is under the immediate administration of the Governor-General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Code in a Local Government.

"High Court" denotes the highest Civil Court of Appeal in such part. (S. C. C. & R. C.)

3. The Sections having the letters S. C. C. affixed to them in a parenthesis, extend (so far as they apply or are applicable) to Courts of Small Causes. The other Sections do not extend to such Courts. The Sections having the letters "B. C." affixed to them in a parenthesis, extend (so far as they apply or are applicable) to Revenue Courts required by any law to regulate their proceedings by this Code. The other Sections do not extend to such Courts.

4. The enactments described in Schedule A annexed to this Code, and all rules relating to Civil Procedure and having the force of law in any part of British India to which this Code extends, are hereby repealed, except so far as they repeal any other enactment or rule. (S. C. C. & R. C.)

## CHAPTER II.

### OF THE JURISDICTION OF THE COURTS.

5. The Courts shall try all suits of a Civil nature excepting suits of which Civil suits unless specially barred. their cognizance is barred by law. (S. C. C. & R. C.)

6. The Courts shall not try any suit in which the matter in issue shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties, or between parties under whom they or any of them claim; nor any suit in which such matter is also in issue in another suit between the same parties, or between parties under whom they or any of them claim, pending in the same or any other Court. (S. C. C. & R. C.)

7. The decrees and orders of the Courts shall not be open to appeal or revision, nor shall a new trial be granted, otherwise than under the rules contained in this Code (S. C. C. & R. C.)

8. No person shall, by reason of his descent or place of birth, be in any Civil proceeding exempted from the jurisdiction of any of the Courts. (S. C. C. & R. C.)

9. Every person shall be entitled to sue except persons expressly prohibited from suing by any law. An Executor or Administrator, a trustee of an express trust, a guardian or next friend of an infant, or the next friend of a lunatic or idiot, may, with the permission of the Court, sue without joining with him the person for whose benefit the suit is brought. (S. C. C. & R. C.)

10. Subject to the pecuniary or other limitations prescribed by any law, the Jurisdiction of Courts of each grade shall try all suits cognizable by them, if in the case of suits for immovable property the property be situate, and if, in all other cases, the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits of the jurisdiction of the Court.

*Explanations.*—(a) The cause of action may be deemed to have arisen where a contract was made, or where it was to be fulfilled, or where any material act in connection therewith was to be done.

(b) Where a person has a permanent dwelling at one place and also a lodging at another place for a temporary purpose only, he shall be deemed to dwell at both places in respect of any cause of action arising at the place where he has such temporary lodging.

(c) A Corporation or Company shall be deemed to carry on business at its sole or principal Office, or at any place where it has also a subordinate Office in respect of any cause of action arising at such place.

(d) The business contemplated in this Section must be carried on at some fixed place for at least a certain time. (S. C. C.)

11. Suits against the Local Government, or the Government of India, not being suits for immovable property, shall be brought in the Court having jurisdiction at the place which is the seat of such Government and competent in respect of the amount or value of the subject of the suit to try the same. (S. C. C.)

12. Suits against the Secretary of State, not being suits for immovable property, shall be brought in the Court having jurisdiction at the place which is the seat of the Local Government for the Territories in which the cause of action arose, and competent in respect of the amount or value of the subject of the suit to try the same. (S. C. C.)



**13.** Every suit shall be instituted in the Court of the lowest grade competent to try it where no option as to the selection of the Court is allowed by this Code or any other law. (S. C. C. & R. C.)

**14.** The District Court may withdraw any suit instituted in any Court subordinate to such District Court, and try the suit itself, or transfer it for trial to any other such subordinate Court competent in respect of the amount or value of the subject of the suit to try the same.

**15.** The High Court may order that the cognizance of any suit or appeal instituted in any subordinate Court other than a Court of Small Causes, shall be transferred to any other subordinate Court, not being a Court of Small Causes, competent in respect of the amount or value of the subject of the suit or appeal to try the same.

**16.** Every suit shall include the whole of the claim arising out of the cause of action; but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted shall not afterwards be entertained. (S. C. C. & R. C.)

**17.** Two or more claims founded on distinct causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided that in respect of the amount or value of the subject-matter in suit, the entire claim does not exceed the jurisdiction of the Court, and, where a stamp is required, is covered by the stamp on which the plaint is written. (S. C. C. & R. C.)

**18.** If two or more claims founded on distinct causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may, at any stage of the suit, order such claims, or any of them, to be tried separately on the record as made up. (S. C. C. & R. C.)

**19.** A claim for immovable property and a claim for the mesne profits of such property may be deemed to be founded on distinct causes of action within the meaning of the last two preceding Sections.

**20.** If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which

the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

**21.** If the immovable property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within whose jurisdiction any portion of the property is situate. In such case the Court in which the suit is brought shall apply to the High Court for authority to proceed with the same. If the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate. The High Court after hearing the objections, if any, of the defendant, may grant such authority.

**22.** If the Districts within the limits of which the immovable property is situate, are subject to different High Courts, the application shall be submitted to the High Court to which the District in which the suit is brought is subordinate; and such High Court may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

**23.** If in a suit for immovable property situate on the border of the local limits of the jurisdiction of the Court, the defendant object to the hearing of the suit on the ground that the property is not situate within such limits, the Court shall have power to determine the point; and if the Court shall find that the property is situate within such limits, it shall proceed to try the suit.

**24.** If a contract shall have been entered into which involves for its performance separate or successive acts, a suit may be brought to enforce the performance of any one or more of such acts, without waiting for the time when the whole of the acts required to be performed under the contract ought to have been performed; and the Court may order the defendant specifically to perform any one or more of such acts without ordering him specifically to perform the entire contract, imposing such terms, if any, upon the plaintiff as shall seem to the Court to be just. (S. C. C.)

**25.** The Court shall not decree the specific performance of any contract the complete performance of which is necessarily extended over a longer period than five years. This rule shall not apply to any contract which shall have been entered into before the passing of this Act: Provided that the Court shall not decree the specific performance of any such contract for a longer period than five years from the date of the decree. (S. C. C.)

**26.** No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby; and it shall be lawful

for the Courts to make binding declarations of right, whether present or future, without granting consequential relief: Provided that no Court shall make any such decree or order unless it could, if required, act upon it by giving consequential relief. A trustee may institute a suit to obtain a declaration of the respective rights of the persons interested in the trust estate.

## CHAPTER III.

## GENERAL RULES.

**27.** Any appearance, act or application in or to any Court, made or done by a party to a suit in such Court, may, except when otherwise expressly provided by this Code, be made or done by the party in person or by his recognized agent, or by an Advocate duly appointed to act on his behalf: Provided that any such appearance shall be made by the party in person if the Court shall so direct. (S. C. C. & R. C.)

**28.** When there are more plaintiffs than one, any one or more of them may be authorized to appear, plead and act for any other of them: and in like manner when there are more defendants than one, any one or more of them may be authorized to appear, plead and act for any other of them: Provided that the authority shall be in writing signed by the parties giving it, and shall be filed in Court. (S. C. C. & R. C.)

**29.** The recognized agents of parties by whom such appearances, acts and applications may be made or done are—

**1st.**—Persons holding general powers of attorney from parties not within the jurisdiction of the District Court within the limits of which the appearance or application is made, authorizing them to make and do such appearances, acts and applications on behalf of such parties.

**2ndly.**—Persons carrying on trade or business for and in the names of parties not within the jurisdiction of the District Court within the limits of which the appearance, act or application is made or done in matters connected with such trade or business only, where no other agent is expressly authorized to make and do such appearances, acts and applications.

**3rdly.**—Persons being *ex-officio* or otherwise authorized to act for Government in respect of any judicial proceeding.

**4thly.**—Persons specially appointed by an order of Government, at the request of any Sovereign Prince or independent Chief, whether residing within or without British India, to prosecute or defend a suit on his behalf.

**5thly.**—Persons holding special powers of attorney from parties who by reason of bodily infirmity are unable without risk or serious inconvenience to attend the Court in person, authorizing them to appear, sue, or defend in a particular suit.

**6thly.**—Persons holding special powers of attorney from women exempt under Section 41 from appearing in Court authorizing them to appear, sue or defend in a particular suit. (S. C. C. & R. C.)

**30.** Processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct. The provisions of this Code relative to the service of process on a party to a suit shall be applicable to the service of process on such recognized agent. (S. C. C. & R. C.)

**31.** The appointment of an Advocate to make or do any appearance, act or application as aforesaid shall be in writing under the hand of the client and shall be filed in Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in Court, or until the Advocate dies or the suit is determined. (S. C. C. & R. C.)

**32.** Processes served on the Advocate of any party or left at the office or ordinary residence of such Advocate, relative to a suit, and whether the same be for the personal appearance of the party or not, shall be presumed to be duly communicated and made known to the party whom the Advocate represents; and, unless the Court shall otherwise direct, shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person. (S. C. C. & R. C.)

**33.** In all cases in which a party to a suit has not appointed an Advocate to act for him, all processes shall be served upon such party in the manner hereinafter provided for the service of a summons upon a defendant to appear and answer. (S. C. C. & R. C.)

**34.** Besides the recognized agents described in Section 29, any person residing within the jurisdiction of the Court may be appointed an agent to receive processes. The appointment of such agent shall be in writing, signed by the principal, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in Court. (S. C. C. & R. C.)

**35.** The person appointed to act as Advocate on the part of Government in any Court, shall be accounted the agent of the Government for the purpose of receiving processes against the Government or the Secretary of State for India, issuing out of the Court in which such person may be the Advocate of Government. (S. C. C. & R. C.)

**36.** The person appointed to act as Advocate on the part of Government in any District Court shall, for the purpose of the last preceding Section, be considered the Advocate of Government in any Court in such District in which no person shall have been specially appointed Advocate on the part of Government in such Court. Processes issued by a Court to the Government Advocate of another Court may be forwarded to him by post. (S. C. C. & R. C.)

**37.** When any Officer or Soldier in the Military Service of the Government is a party to a suit, and cannot obtain leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any person to sue or defend in his stead. The authority shall be in writing and shall be signed by the Officer or Soldier in the presence of his Commanding Officer or of the next subordinate Officer, if the party be himself the Commanding Officer. Such Commanding or other Officer shall countersign the authority, which shall be filed in Court. When so filed, the countersignature of the Commanding Officer or of the next subordinate Officer, as the case may be, shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain leave of absence for the purpose of prosecuting or defending the suit in person. (S. C. C. & R. C.)

**38.** Any person who shall be authorized by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the Officer or Soldier could do if present; or he may appoint an Advocate to prosecute or defend the suit on behalf of such Officer or Soldier. (S. C. C. & R. C.)

**39.** Processes served upon any person who shall have been authorized by an Officer or Soldier, as in the last preceding Section mentioned, or upon any Advocate who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on an Advocate appointed by him. (S. C. C. & R. C.)

**40.** An infant shall sue by guardian or next friend, who shall be admitted and may be removed by the Court and shall be liable for the costs of the suit. An infant shall be sued by guardian who shall be admitted and may be removed by the Court.

#### EXEMPTION FROM PERSONAL APPEARANCE.

**41.** Women, who according to the customs and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court. (S. C. C. & R. C.)

**42.** The local Government may, at its discretion, exempt from personal appearance in Court any person whose rank, in the opinion of such Government, entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. (S. C. C. & R. C.)

**43.** The names of the persons exempted under the last preceding Section from personal appearance in Court, residing within the jurisdiction of the District Court, shall from time to time be forwarded to such Court by the local Government, and a list of such persons shall be kept in such Court and in the several subordinate Courts of the District. (S. C. C. & R. C.)

#### SERVICE OF PROCESS.

**44.** Wherever this Code provides that any notice, summons, letter or other communication may be sent to the person to whom it is addressed by post, proof that the same was correctly addressed to such person at his place of residence, and that it was posted and registered according to any law for the management of the Post Office shall, in the absence of evidence to the contrary, be sufficient proof of the due service and delivery of the notice, summons, letter or other communication. (S. C. C. & R. C.)

**45.** Every process required to be issued under this Code, shall be served at the expense of the party at whose instance it is issued, unless the Court shall otherwise direct. The sum required to defray the costs of such service shall be paid into Court before the process is issued, within a period to be fixed by the Court issuing the process. Postage, where chargeable on any notice, summons, letter or other communication forwarded by post and the fee for registering the same shall be costs required to be paid as aforesaid within the meaning of this Section. In fixing the costs to be paid for service of process, regard shall be had to any law or to any rules issued by the High Court for fixing the amount of such costs. (S. C. C. & R. C.)

**46.** Whenever any person not a party to the suit, shall be summoned to give evidence or to produce any document in a suit otherwise than on the application of a party to the suit, the cost of summoning such person, including his travelling and other expenses, if not deposited by any party to the suit, shall (if the Court shall so direct) be paid by the Collector of the District, and shall be costs in the suit, and shall be paid out of any money recovered on account of costs in the suit whether at the instance of the Government or of any of the parties to the suit, before any other costs in the suit are paid. (S. C. C. & R. C.)

**47.** Whenever any process issued by any Court established beyond the local limits of the ordinary original Civil jurisdiction of a High Court is to be served within the local limits of such Court, it shall be delivered to the Court of Small Causes within whose jurisdiction the process is to be served, or to any Court other than the High Court which may now exist or which may hereafter be established with jurisdiction within the same local limits, and shall be executed by such Court of Small Causes or other Court in the same manner as if such process had been issued by such Court of Small Causes or other Court, and, after having been so executed, shall be returned to the Court by which it was issued. The delivery of the process to the Court required to execute the same, and its return to the Court by which the process was issued, may be by an Officer of the Court which issued the process, or by post.

**48.** The examination of the parties to a suit or other proceeding when authorized under this Code, and the evidence of witnesses or other persons shall be upon oath or affirmation or otherwise according to the provisions of any law for the examination of witnesses. (S. C. C. & R. C.)

**49.** The Court may, if it see sufficient cause, direct any written document produced in Court in any suit to be impounded and kept in the custody of an Officer of the Court, for such period and subject to such conditions as to the Court shall seem fit. (S. C. C. & R. C.)

**50.** When security is required, a deposit may be made instead. When security is required by any person, the Court may permit such person to deposit a sum of money, Government Promissory Notes, or other valuable property to such amount as the Court may fix, in lieu of the security required. (S. C. C. & R. C.)

**51.** If any plaintiff, written statement, or declaration in writing required by this Code to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provisions of the law for the punishment of giving or fabricating false evidence. (S. C. C. & R. C.)

**52.** At the time of disposing of any application made under any provision of this Code, the Court may award to either party the costs of such application, or may reserve the consideration of such costs for any future stage of the proceedings.

## CHAPTER IV.

## OF A SUIT TILL DECREE.

## OF THE INSTITUTION OF SUITS.

**53.** Every suit shall be commenced by a plaint which shall contain the following particulars:—

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action, and where and when it accrued; and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:—

If the suit be for money due on a bond:—Payment of Rupees due on a bond for the sum of Rupees bearing date the day of 186 and payable on the day of 186 namely,—

Principal ... .. Rupees

Interest at the rate of per cent. ... .. Rupees

Amount paid (if any) ... .. Rupees

Balance due ... .. Rupees

If the suit be for the amount due on a bill of exchange drawn by the plaintiff and accepted by the defendant,—

Payment of Rupees being the amount of a bill of exchange for the sum of Rupees now overdue, drawn by the plaintiff on the day of 186 and accepted by the defendant, with interest thereon at per cent. till payment.

If the suit be for the price of goods sold:—

Payment of Rupees on account of maunds of (rice, indigo, sugar, or as the case may be) sold on the day of , and the price of which became payable on the day of as per account at foot.

If the suit be for money due on an account:—

Payment of Rupees due [or being the balance due] to the plaintiff on the following account.

To [here state the debit side of the account] ... .. Rupees

Cr.

By [here state the credit side in respect of payments and set-off, if any] Rupees

Balance due ... .. Rupees

If the suit be for money payable for work done and materials provided:—

Payment of Rupees for [builder's, carpenter's, joiner's, plasterer's, or mason's, or as the case may be] work done at the premises in and for materials thereon provided between the of 186 and the of 186 .



If the suit be for damages for any injury done :—  
 Payment of Rupees \_\_\_\_\_ on account of  
 injury done to the plaintiff.

[Here set out the nature of the injury, and the time at which it was inflicted, and state the particulars of the pecuniary loss (if any)].

If the plaintiff claim exemption from any law of limitation, say—“The plaintiff was an infant (or as the case may be) from the \_\_\_\_\_ day of 186 to the \_\_\_\_\_ day of \_\_\_\_\_.”

4.—When the claim is for any property other than money, its value estimated according to law.

The following is an instance :—

If the suit be for an estate or for a share in an estate paying revenue to Government :—Possession of the estate (or of \_\_\_\_\_ share in the estate) called \_\_\_\_\_, situate in the District of \_\_\_\_\_, the Government Revenue assessed on which is Rupees \_\_\_\_\_ (or the estimated value of which is Rupees \_\_\_\_\_), of which the plaintiff was dispossessed (or forcibly or fraudulently dispossessed, if the case be so), on the \_\_\_\_\_ day of 186 ; (or to which plaintiff became entitled by inheritance from \_\_\_\_\_ or, by gift, purchase, or otherwise, as the case may be), on or about the day of 186 .

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest shall be specified ; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In suits by or against the Secretary of State for India, or the Government, or one of its Officers in his official capacity, or any Corporation or Company authorized to sue and be sued in the name of an Officer or of a Trustee, the words “The Secretary of State for India,” “The Government,” or “The Collector of \_\_\_\_\_,” (or otherwise as the case may be), or the name of the Corporation, or the name of the Officer or Trustee of the Company shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in every other suit it shall be necessary to specify the names of all the parties. (S. C. C. & R. C.)

54. The plaintiff shall be subscribed by the plaintiff and his Advocate (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect :—

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief. (S. C. C. & R. C.)

55. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on his behalf by any person whom the Court may consider competent to make the verification. (S. C. C. & R. C.)

56. In suits by the Government or the Secretary of State for India, it shall

In suits by Government or Secretary of State. be sufficient if the plaint be subscribed and verified by the Government Advocate of the Court in which the suit is brought, or, where there is no such Advocate, by the Advocate by whom the plaint is filed. (S. C. C. & R. C.)

57. In suits by a Corporation or a Company

In suits by a Corporation or Company. authorized to sue and be sued in the name of an Officer or of a Trustee, the plaint may be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who is able to depose to the facts of the case. (S. C. C. & R. C.)

58. The plaint may, at the discretion of the

Cases in which the Court, and at any time before the decree is passed, be rejected, returned for amendment within a time to be fixed by the Court, or amended then and there, upon such terms as to the payment of costs occasioned by the amendment as the Court shall think fit—

(1.) If it do not state correctly and without prolixity the several particulars hereinbefore required to be specified therein :

(2.) If it contain any particulars other than those so required :

(3.) If it be not subscribed and verified as hereinbefore required :

(4.) If it do not disclose a cause of action or

(5.) If the cause of action appear from the statement in the plaint to be barred by lapse of time. (S. C. C. & R. C.)

59. The plaint shall be returned to be presented to the proper Court in the following cases :—

(1.) If a suit shall have been instituted in a Court whose grade is lower or higher than that of the Court competent to try it where such Court exists, or where no option as to the selection of the Court shall be allowed by law.

(2.) If in a suit relating to immovable property, it appear that no part of such property is situate within the local limits of the Court.

(3.) If in a suit relating to immovable property, it appear that such property has been adjudged by competent authority to be situate within the local limits of the jurisdiction of another Court.

(4.) If in any other case it appear that the cause of action did not arise and that none of the defendants are dwelling or carrying on business or personally working for gain within the local limits of the jurisdiction of the Court. (S. C. C. & R. C.)

60. The plaint shall be rejected in the following cases :—

(1.) If the claim is undervalued and the plaintiff, on being required by the Court to correct the

valuation within a time to be fixed by the Court, shall fail to do so.

(2.) If the claim is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp paper, within a time to be fixed by the Court, shall fail to do so.

(3.) If in the case mentioned in Section 63, the plaintiff fail to furnish security for the payment of the costs that may be incurred by the defendants. (S. C. C. & R. C.)

**61.** If in any suit there are more defendants than one, and at the date of the institution of the suit any of the defendants shall not dwell within the local limits of the jurisdiction of the Court in which the suit is brought, but one or more of the defendants shall dwell within such limits, the suit shall not be ejected as against the defendant or defendants so dwelling, by reason of any of the defendants not dwelling within the local limits of the jurisdiction of the Court. (S. C. C. & R. C.)

**62.** The rejection of the plaint on any of the grounds hereinbefore mentioned shall not preclude presentation of a fresh plaint in respect of the same cause of action, if not barred by the law of limitations. (S. C. C. & R. C.)

**63.** When the plaintiff ordinarily dwells out of British India, and does not possess any sufficient immovable property within British India independent of the property in suit, he shall, on presenting the plaint or within such time as the Court shall order, furnish security for the payment of the costs that may be incurred by the defendant. (S. C. C.)

**64.** If at any subsequent stage of a suit it shall appear to the Court that a sole plaintiff is, or that all the plaintiffs (when there are more plaintiffs than one) are, residing out of British India, and such plaintiff or plaintiffs shall not possess any sufficient immovable property within British India independent of the property in suit, the Court may order the plaintiff or plaintiffs, within a time to be fixed by the order, to give security for the payment of all costs incurred and likely to be incurred by the defendant. In the event of such security not being furnished within the time so fixed, the Court shall pass a decree against the plaintiff or plaintiffs by default, unless he or they be permitted to withdraw from the suit under the provisions of Section 143.

*Explanation.*—A person is considered to be resident out of British India, within the meaning of the last two preceding Sections, who leaves British India for a purpose which is likely to keep him abroad for such a length of time that there is no reasonable probability that he will be forthcoming when he may be called upon to pay the costs incurred by the defendant in the suit. (S. C. C.)

**65.** If the suit be for immovable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court, the Court shall proceed according to the rules contained in Section 20, Section 21, or Section 22, as the case may be.

**66.** If the Court consider the plaint admissible, the particulars mentioned in Section 58 shall be entered in a book to be kept for the purpose, and called the Register of Civil suits. The entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule B annexed to this Code. (S. C. C. & R. C.)

**67.** If a plaintiff sue upon a written document in his own possession or power, he shall produce such document in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint. Such copy shall have the stamp prescribed for petitions where a stamp is required for petitions. The plaintiff may, if he think proper, deliver the original document to be filed instead of a copy. If he rely on any other documents as evidence in support of his claim, he shall enter a list of such documents at the foot of the plaint. (S. C. C. & R. C.)

**68.** If the document on which the plaintiff sues be an entry in a shop-book, &c., to be produced, the plaintiff shall produce the book to the Court, together with a copy of the entry on which he relies. Such copy shall bear the stamp prescribed for petitions where a stamp is required for petitions. (S. C. C. & R. C.)

**69.** The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. (S. C. C. & R. C.)

**70.** No document required to be produced in Court by the plaintiff when the plaint is presented, or to be entered at the foot of the plaint, and not produced or entered accordingly, shall be received in evidence on his behalf at the hearing of the suit without the sanction of the Court. (S. C. C. & R. C.)

**71.** If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, and apply that the defendant may be re-

quired to produce the same, and the Court shall have power to compel such production. (S. C. C. & R. C.)

#### OF SUMMONING THE DEFENDANT.

**72.** After the plaint has been registered, a

On plaint being registered, summons to issue to defendant to appear and answer on a specified day.

summons, under the signature of the Judge or of the Registrar or Clerk of the Court, and under the seal of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by an Advocate duly instructed and able to answer all material questions relating to the suit, or by an Advocate who shall be accompanied by some other person able to answer all such questions. (S. C. C. & R. C.)

**73.** If the Court see reason to require the

Court may order personal appearance of the defendant or plaintiff defendant, the summons shall to appear in person. order him to appear in person in Court on the day therein specified. If the Court see reason to require the personal appearance of the plaintiff on the same day, it may make an order for such appearance. (S. C. C. & R. C.)

**74.** In suits by or against a Corporation or a

Court may order personal appearance of a Director, Secretary or Officer in suits against a Corporation or Company.

Company authorized to sue and be sued in the name of an Officer or of a Trustee, the Court may require the personal appearance of any Director, Secretary, or other Principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit. (S. C. C. & R. C.)

**75.** No plaintiff or defendant shall be ordered

No party to be ordered to appear in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within 50 miles.

where the Court is held, unless he be resident within the local limits of the jurisdiction of the Court; Or within the local jurisdiction of the Court:

Or unless there be railway communication exist between the place where he resides and the place where the Court is held, or within a convenient distance from such places, in which case the Court shall have a discretion as to making such order. (S. C. C. & R. C.)

**76.** The Court shall determine, at the time

Summons to be either to settle the issues, or for final disposal. of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

**77.** In every suit cognizable under any law

In cases cognizable by Courts of Small Causes, the summons to the defendant shall be for the final disposal of the suit. (S. C. C. & R. C.)

**78.** The day for the appearance of the defend-

ant shall be fixed by the Court with reference to the place of residence of the defendant and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer on such day. (S. C. C. & R. C.)

**79.** The summons to appear and answer shall

order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his case. (S. C. C. & R. C.)

**80.** When the summons is for the final dis-

posal of the suit, it shall direct the defendant to produce on the day fixed for his appearance the witnesses upon whose evidence he intends to rely in support of his case. A similar direction shall be given to the plaintiff at the time of issuing the summons. (S. C. C. & R. C.)

**81.** The summons shall be in the form con-

tained in the Schedule C annexed to this Code, or to the like effect; and shall contain a demand of the costs incurred to the time of payment. (S. C. C. & R. C.)

#### SERVICE OF SUMMONS ON THE DEFENDANT.

**82.** The summons shall be delivered to the

proper Officer of the Court to be served by him or one of his subordinates. (S. C. C. & R. C.)

**83.** Service of the summons shall be made

by delivering or tendering a copy thereof under the signature of the Judge or of the Registrar or Clerk of the Court and under the seal of the Court. (S. C. C. & R. C.)

**84.** When there are more defendants than

one, service of the summons shall be made on each defendant: Provided that if the defendants are partners, and the suit relates to a partnership transaction, service on one defendant for himself and for the other defendants shall be sufficient, unless the Court shall otherwise direct. (S. C. C. & R. C.)

**85.** Whenever it may be practicable, the ser-

vice shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient. (S. C. C. & R. C.)

**86.** In a suit relating to any business or

work for gain, service on the servant or agent of the person carrying on such business or work shall be deemed to be good service upon such person, although he

does not reside within the local limits of the jurisdiction of the Court from which the summons issues: Provided that such servant or agent at the time of service personally carries on the business or work for gain for such person within such limits. (S. C. C.)

**87.** If the defendant cannot be found and if he have no agent empowered to accept the service of the summons on his behalf, the service may be made on any adult male member of the family of the defendant who is residing with him.

*Explanation.*—A servant is not a member of the family within the meaning of this Section. (S. C. C. & R. C.)

**88.** When the summons is served on the defendant personally, or on an agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service shall be made, and an acknowledgment of service to be endorsed in the original summons or on a duplicate thereof signed and sealed as aforesaid. If such person refuse to sign the acknowledgment, the serving Officer may affix the copy of the summons on some conspicuous part of the house in which the defendant is dwelling, but though copy not affixed, the service of the summons shall be held sufficient if it be proved to the satisfaction of the Court, notwithstanding that a copy of the summons shall not have been so affixed. (S. C. C. & R. C.)

**89.** If the defendant cannot be found and there is no agent empowered to accept the service of the summons on his behalf, nor any other person on whom the service can be lawfully made, the serving Officer shall fix the copy of the summons on some conspicuous part of the house in which the defendant is dwelling. (S. C. C. & R. C.)

**90.** If the defendant is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from which it issued, with an endorsement thereon that he has been unable to serve it: Provided that if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the local limits of the jurisdiction of the Court other than that mentioned in the summons, the Officer may proceed to that place to serve the summons, and may serve it there. (S. C. C. & R. C.)

**91.** The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons or on a duplicate thereof signed and sealed as aforesaid, the time when and the manner in which the summons was served, and such endorsement shall

be evidence of the service of the summons (S. C. C. & R. C.)

**92.** When a summons is returned without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way for the purpose of avoiding the service, or if for any other reason the summons cannot be served, the Court shall order the summons to be served by affixing a copy thereof in some conspicuous place in the Court-house, and also upon some conspicuous part of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. The service which shall be substituted by order of the Court, shall be as effectual as if it had been made in any of the modes hereinbefore mentioned. (S. C. C. & R. C.)

**93.** If the defendant is resident within the jurisdiction of any Court other than the Court in which the suit is instituted, and has no agent empowered to accept the service of the summons, the Court in which the suit is instituted shall send the summons, either by an Officer of the Court or by post, to any Court, not being a High Court, having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require. The Court to which the summons is sent shall, upon receipt thereof, deliver it to the proper Officer of such Court, to be served in the manner hereinbefore directed. Upon the return of the summons by the serving Officer, it shall be sent back to the Court from which it originally issued. (S. C. C. & R. C.)

**94.** If the defendant be in Jail under either Civil or Criminal process, the summons shall be delivered to the Officer in charge of the Jail in which the defendant is confined, and such Officer shall cause the summons to be served upon the defendant. The summons shall be returned to the Officer from whom it was received with the acknowledgment of the defendant endorsed thereupon and countersigned by the Officer in charge of the Jail. (S. C. C. & R. C.)

**95.** If the Jail in which the defendant is confined is not in the District in which the suit is brought, the summons may be sent by post or otherwise to the Officer in charge of such Jail, and such Officer shall cause the summons to be served upon the defendant, and shall return the summons to the Court from which it issued, with the acknowledgment of the defendant endorsed thereupon, and countersigned as provided in the last preceding Section. (S. C. C. & R. C.)



**96.** If the defendant is resident out of British India, and has no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he is residing and forwarded to him by post if there be a post to such place. (S. C. C.)

**97.** If there be a British Resident or Agent of Government in or for the Territory in which the defendant is residing, the summons may be sent to such Resident or Agent, by post or otherwise, for the purpose of being served upon the defendant; and if the Resident or Agent shall return the summons with his endorsement that the summons has been served on the defendant, such service shall be deemed good service. (S. C. C.)

**98.** In any case falling within the last two preceding Sections, the time under Section 96, or for the appearance of the defendant shall be regulated by the time which may be required for communication by post or otherwise between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing shall have been adjourned, the defendant shall not appear, the plaintiff may apply to the Court, and the Court may direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet. (S. C. C.)

**99.** In a suit for immovable property, if the summons cannot be served on the defendant in person, and the defendant have no agent empowered to accept the service of the summons, it may be served on any agent of the defendant in charge of such property. (R. C.)

**100.** If the defendant be in the service of the Government, the Court may send a copy of the summons to the head Officer of the office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. (S. C. C. & R. C.)

**101.** If the defendant be an Officer or Soldier in the Military Service of the Government, the Court shall transmit a copy of the summons to the Commanding Officer of such Officer or Soldier for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed, if practicable, shall return it to the Court with the written acknowledgment of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed,

it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall take such other means of serving the summons as it may think fit. (S. C. C. & R. C.)

**102.** When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or of a Trustee, the summons may be served by leaving the same at the registered office (if any) of the Corporation or Company, or sending it by post in a letter addressed to such Officer or Trustee at the Office of the Corporation or Company, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company. (S. C. C. & R. C.)

**103.** Nothing herein contained shall prevent the Court from substituting for the summons a letter signed by the Judge or Registrar or Clerk of the Court, and under the seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter shall contain all the particulars required to be stated in the summons, and, subject to the provisions contained in the next succeeding Section, shall be treated in all respects as a summons. (S. C. C. & R. C.)

**104.** When a letter or other communication is substituted for a summons, it may be sent by post or by a special messenger selected by the Court, or in any other manner which the Court may direct: unless the party shall have an agent empowered to accept the service of the summons, in which case delivery to such agent shall be deemed good service. (S. C. C. and R. C.)

#### OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

**105.** If the suit be against the Secretary of State for India or against the Government, the summons shall be served on the Government Advocate of the Court in which the suit is instituted or on any other person appointed to receive process on behalf of the Government. (S. C. C. & R. C.)

**106.** The Court, in fixing the day for the Secretary of State for India or the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Advocate to appear and answer on behalf of the Secretary of State for India or the Government, and may extend the time at its discretion on application being made for such extension. The Court may also in any case in which the Government Advocate is not accompanied by some person on the part of the Secretary of State for India or the Government

who may be able to answer any material questions relating to the suit, direct the attendance of such person. (S. C. C. & R. C.)

**107.** If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner provided in Section 100. (S. C. C. & R. C.)

**108.** If the Officer on receiving the summons shall consider it proper to make a reference to the Government before answering to the plaint, he may apply to the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channel; and the Court upon such application may extend the time for so long as shall appear to be requisite. (S. C. C. & R. C.)

**109.** If the Government undertake the defence of a suit of the nature referred to in Section 107, the Government Advocate, upon being furnished with authority to appear and answer to the plaint, shall apply to the Court, and upon such application the Court shall cause a note of his authority to be entered in the Register. (S. C. C. & R. C.)

**110.** If such application shall not be made by the Government Advocate on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment. (S. C. C. & R. C.)

**111.** If in a suit against an Officer of the Government the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without detriment to the public service, the Court shall exempt him from appearing in person, but he shall be liable to be examined in any way in which an absent witness may be examined. (S. C. C. & R. C.)

#### OF MAKING PERSONS NOT BEFORE THE COURT PARTIES TO A SUIT.

**112.** If it appear to the Court at any stage of a suit, that any person who may be entitled to, or who may claim some share or interest in, the subject-matter of the suit, and who may be likely to be affected by the result, has not been made a party to the suit, the Court may direct that persons appearing to be interested in a suit shall be made parties, and may cause notices to be served on them.

the Court may direct that such person shall be made either plaintiff or defendant in the suit as the case may be. In such case the Court shall issue a notice to such person in the manner hereinbefore provided for the service of a summons on a defendant. (S. C. C. & R. C.)

#### OF ARREST BEFORE JUDGMENT.

**113.** If at any stage of a suit for moveable property the plaintiff shall satisfy the Court that the defendant, with intent to avoid or delay the plaintiff or to obstruct or delay the execution of any decree that may be passed against him, has absconded, or is about to abscond or to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may apply to the Court that security be taken for the appearance of the defendant to answer any decree that may be passed against him in the suit. (S. C. C. & R. C.)

**114.** If the Court, after examining the applicant, and making such further investigation as it may consider necessary, shall find that the defendant has absconded, or that there is good ground for believing that he is about to abscond or to leave the jurisdiction of the Court with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree that may be passed against him, the Court may issue an order for bringing the defendant before the Court to show cause why he should not give security for his appearance. (S. C. C. & R. C.)

**115.** If the defendant fail to show such cause, the Court shall order him either to deposit in Court money or other property sufficient to answer the claim against him, or to give security for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit. The surety shall bind himself, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. (S. C. C. & R. C.)

**116.** If the defendant fail to comply with such order to give security, the Court may commit him to Jail until the decision of the suit or for such other time as the Court shall direct. (S. C. C. & R. C.)

**117.** The surety for the appearance of the defendant may at any time apply to the Court in which he became such surety to be discharged from his obligation. On such application being made, the Court shall summon the defendant to appear, or

if it shall think fit, may issue a warrant for his arrest in the first instance. On the appearance of the defendant pursuant to the summons or warrant, or on his voluntary surrender, the Court shall direct the surety to be discharged from his obligation, and shall call upon the defendant to find fresh security. (S. C. C. & R. C.)

**118.** In the event of the defendant not furnishing fresh security, the Court may commit him to Jail until the decision of the suit, or, if judgment be given against him, until the execution of the decree, or for such time as the Court shall direct. (S. C. C. & R. C.)

**119.** If it shall appear to the Court that the defendant arrested or arrested on insufficient grounds, or if, after such arrest, the suit of the plaintiff is dismissed, or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may, on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest. (S. C. C. & R. C.)

**120.** If in any suit the defendant is about to leave British India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided. (S. C. C.)

#### OF ATTACHMENT BEFORE JUDGMENT.

**121.** If in any suit the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of the whole or any part of his property, or to remove the same from the jurisdiction of the Court in which the suit is pending, or if the defendant with like intent shall have quitted the jurisdiction, leaving therein property belonging to him, the plaintiff may at any stage of the suit apply to the Court to call upon the defendant to furnish security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any such property shall be attached

until the further order of the Court. (S. C. C. & R. C.)

**122.** The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid. The declaration shall be in writing, and shall be verified in the manner hereinbefore provided for the verification of plaints: Provided that the Court may dispense with the specification and valuation required by this Section if satisfied of the plaintiff's inability to furnish the same. (S. C. C. & R. C.)

**123.** If the Court, after examining the application, and making any further investigation which it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of any decree that may be passed against him in the suit, the Court may call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the order direct the attachment of the whole or any portion of the property specified in the application. (S. C. C. & R. C.)

**124.** If the defendant fail to show cause why he should not furnish security, or fail to furnish the security required within the time fixed by the Court, the Court may order that the property specified in the application or such portion thereof as shall appear to be sufficient to fulfil any decree which may be passed in the suit shall be attached, or it may order that the defendant be committed to custody until the decision of the suit or for such other time as the Court shall direct. (S. C. C. & R. C.)

**125.** If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been ordered to be attached, the Court shall order the attachment to be withdrawn. (S. C. C. & R. C.)

**126.** The attachment shall be made, according to the nature of the property to be attached, in the manner hereinafter provided for the attachment of property in execution of a decree for money. (S. C. C. & R. C.)

**127.** If any claim be preferred to the property attached before judgment, such claims shall be investigated in the manner hereinafter provided for the

investigation of claims to property attached in execution of a decree for money. (S. C. C. & R. C.)

**128.** When an order of attachment before judgment is passed, the Court which passed the order shall at any time remove the attachment on the defendant furnishing the security required, together with security for the costs of the attachment. (S. C. C. & R. C.)

**129.** If it shall appear to the Court that the attachment was obtained on insufficient grounds, or if, after the attachment, the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may on the application of the defendant, award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment. (S. C. C. & R. C.)

**130.** Attachment before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree. (S. C. C. & R. C.)

**131.** If it shall appear to the Court by which the property shall have been ordered to be attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for under the provisions of the last preceding Section, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution if the decree be a decree of that Court, or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the person on whose application the property was ordered to be attached to adopt proceedings to set aside the decree. (S. C. C. & R. C.)

**132.** When land paying revenue to Government, or a tenure liable to summary sale, forms the subject of a suit, if the party in possession of such land or tenure shall neglect to pay the Government revenue, or the rent due to the proprietor of the tenure, as the case may be, and a sale shall in consequence be ordered to take place, the party to the suit not in possession shall, upon payment

of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the land or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as the Court may think fit, or may charge the amount so paid, with interest thereupon at such rate as the Court may order, in any adjustment of accounts which may be directed in the decree passed in the suit.

#### OF EX PARTE ORDERS TO PERFORM A CONTRACT.

**133.** In any suit brought under Section 24 on a contract which shall have been registered under any law for the registration of assurances, the Court may, on the application of the plaintiff at the time of the institution of the suit, and if satisfied that the contract is capable of being performed by the defendant, that the plaintiff is likely to be materially prejudiced by any delay in such performance, and that the application is in good faith, make an order *ex parte* calling upon the defendant within a time to be fixed by the Court to perform the contract, or to appear and show cause why its immediate performance should not be enforced. (S. C. C.)

**134.** If the defendant shall not, within the time fixed by the Court, either perform the contract, or appear and show cause why the immediate performance of the contract should not be enforced, and if it shall be proved to the satisfaction of the Court that the said order was duly served upon him in any of the modes of service hereinbefore provided, the Court shall proceed at once to take such evidence as the plaintiff shall adduce in support of his claim, and, subject to the conditions contained in Section 314, thereupon give judgment and pass a decree on the judgment so given as provided in the same Section. (S. C. C.)

#### OF INJUNCTIONS.

**135.** If it be shown to the satisfaction of the Court that any property which is in dispute in a suit is in danger of being wasted, damaged or alienated by any party to the suit, the Court may issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or threatened, or give such other order for the purpose of staying and preventing the wasting, damaging or alienation of the property as to the Court may seem meet.

**136.** The Court may, before granting an injunction, direct notice of the application for the same to be given to the opposite party.

**137.** Whenever it may appear to the Court to be necessary for the preservation or the better management or custody of any immovable property which is in dispute in a suit, it shall be lawful for the Court to appoint a Receiver or Manager of such property, on such



terms as to security or otherwise as to the Court shall seem fit, and if need be to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such Receiver or Manager, and to grant to such Receiver or Manager such fee or commission on the rents and profits of the property by way of remuneration, and all such powers as to bringing and defending suits, and for the management, protection, preservation, and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as the Court may think fit.

**138.** If the property be land paying revenue

When the Collector to Government, and the may be appointed Receiver. Court shall consider that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver and Manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such Receiver and Manager.

**139.** In any suit for restraining the defendant

Injunction to restrain repetition or continuance of breach. from committing a breach of contract or other injury, and whether damages be claimed in the suit or not, the plaintiff may, at any time after the commencement of the suit, and either before or after judgment, apply to the Court for an injunction to restrain the defendant from the repetition or the continuance of the breach of contract or wrongful act complained of, or the committing of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right. Such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to the Court shall seem proper. In case of disobedience, an injunction granted under this Section or Section 135 may be enforced by the imprisonment of the defendant or the attachment of his movable property or both.

**140.** Any order for an injunction may be

Order for injunction may be discharged, varied or set aside. discharged, varied or set aside, application made thereto by any party dissatisfied with such order.

**141.** If it shall appear to the Court that the

Compensation to defendant for issue of injunction or institution of suit on insufficient grounds. injunction was applied for on insufficient grounds, or if after the issue of the injunction, the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may, on the application of the defendant, award against the plaintiff in its decree such sum, not exceeding one thousand rupees, as it may deem a reasonable compensation to the defendant for the expense or in-

jury occasioned to him by the issue of the injunction: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Proviso.

**142.** An award of compensation under Section 119, Section 129, or of compensation. Section 141, shall be executed in the manner hereinafter provided for the execution of decrees for money.

**OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.**

**143.** If the plaintiff, at any time before judgment, satisfy the Court that

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit. there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, the Court may grant such permission on such terms as to costs or otherwise as it may deem proper. If the plaintiff withdraw from the suit without such permission, he shall be liable for such costs as the Court shall award, and shall be precluded from bringing a fresh suit for the same matter. (S. C. C. & R. C.)

**144.** In any fresh suit instituted on permission granted under the last

Law as to limitation of actions not affected by the first suit. preceding Section, the plaintiff shall be bound by the law of limitations in the same manner as if the first suit had not been brought. (S. C. C. & R. C.)

**145.** If a suit shall be adjusted by mutual

Compromise of suits. agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. (S. C. C. & R. C.)

**146.** On the application of the plaintiff

reciting the substance of such agreement, compromise or satisfaction, if such application shall have been presented before the suit is called up for the settlement of issues, or, in a suit in which the summons to the defendant shall be for the final disposal of the suit, if such application shall have been presented before the hearing of the suit has commenced, the Court, if satisfied that such agreement, compromise or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector a moiety of the stamp-duty, if any, paid on the plaint and the Collector shall pay the same: Provided that no such certificate shall be granted if the arrangement between the parties be such as to require the Court in disposing of the suit to pass a decree on which process of execution can be taken out. (S. C. C. & R. C.)

Proviso.

## OF THE DEATH, MARRIAGE, AND BANKRUPTCY OR INSOLVENCY OF PARTIES.

**147.** The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive. (S. C. C. & R. C.)

**148.** If there be more plaintiffs or defendants than one, and any of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, or against the surviving defendant or defendants. (S. C. C. & R. C.)

**149.** If there be more plaintiffs than one, and any of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to him or them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. (S. C. C. & R. C.)

**150.** If no application shall be made to the Court within a reasonable time by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the decree passed in the suit, in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs. (S. C. C. & R. C.)

**151.** In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed. (S. C. C. & R. C.)

**152.** If no such application shall be made to the Court, within a reasonable time, by any person claiming to be the legal representative of any such deceased plaintiff as aforesaid, the Court may pass an order that the suit shall abate, and award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the estate of such deceased plaintiff as aforesaid; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs or otherwise as it may think fit, pass such other order for bringing in the legal representative

of such deceased plaintiff as aforesaid, and for proceeding with the suit in order to a final determination of the matter in dispute, as may appear just and proper. (S. C. C. & R. C.)

**153.** If any dispute arise as to who is the legal representative of a deceased plaintiff, the Court may either stay the suit until the fact has been determined in another suit, or decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit. (S. C. C. & R. C.)

**154.** If there be more defendants than one and any of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of the deceased defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to such representative to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit: Provided that the person so made defendant shall be at liberty to make any defence appropriate to his character as such representative. (S. C. C. & R. C.)

**155.** The marriage of a female plaintiff or defendant shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed against the wife alone. If the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may with such permission be issued upon the application of the husband, where the husband is by law entitled to the subject-matter of the decree. (S. C. C. & R. C.)

**156.** The bankruptcy or insolvency of a plaintiff in any suit which his Assignee might maintain for the benefit of his creditors shall not abate the suit unless such Assignee shall decline to continue the suit and to give security for the costs thereof within such time as the Court may order. If the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may within eight days after such neglect or refusal apply for the abatement of the suit on the ground of the plaintiff's bankruptcy or insolvency, and the Court may

award to the defendant the costs which he may have incurred in defending the suit, to be recovered from the plaintiff's estate. (S. C. C. & R. C.)

**OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.**

**157.** When a party to a suit desires that any document, writing, or other thing which he believes to be in the possession or power of any other party to the suit and the production of which shall not have been previously required under the provisions of Sections 71 and 79, shall be produced at any hearing of the suit, such party shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same. One of such notices shall be filed in Court and the other shall be delivered by the Court to the proper Officer, to be served upon such party; and if the Court shall so order, such notice, when served, shall have the force of a summons. (S. C. C. & R. C.)

**OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCE OF NON-APPEARANCE.**

**158.** On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house, and the suit shall then be heard, unless the hearing be adjourned to a future day which shall be fixed by the Court. (S. C. C. & R. C.)

**159.** If on the day fixed for the defendant to appear and answer, it shall be found that the summons has not been served upon him in consequence of the failure of the plaintiff to deposit, within the time allowed, the sum required to defray the cost of issuing such summons, the Court may order that the suit be dismissed: Provided that no such order shall be passed, although the summons shall not have been served upon the defendant, if, on the day fixed for him to appear and answer, he shall have entered an appearance by an Advocate or by a duly authorized agent, when he is allowed to appear by agent, or shall be in attendance in person. (S. C. C. & R. C.)

**160.** If on the day fixed for the defendant to appear and answer, or on any other subsequent day to which the hearing of the suit may be adjourned, neither party shall appear when called upon by the Court, the suit shall be dismissed. (S. C. C. & R. C.)

**161.** Whenever a suit is dismissed under either of the last two preceding Sections, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the law of limitations; or if he shall within the period of thirty days from the date of the order dismissing the suit, satisfy the Court that there was a sufficient excuse for his

not making the deposit required within the time allowed or for his non-appearance, as the case may be, the Court may issue a fresh summons upon the plaint already filed. (S. C. C. & R. C.)

**162.** If the plaintiff shall appear and the defendant shall not appear, and the Court shall be satisfied that the summons was duly served, the Court may proceed to hear the suit *ex parte* or adjourn it, whether the summons was for the final disposal of the suit or for the settlement of issues only. If the summons shall have been issued for the final disposal of the suit, the Court, if satisfied of the justice of the plaintiff's claim, may proceed to pass a decree *ex parte* in his favour. (S. C. C. & R. C.)

**163.** If the defendant, on any subsequent day to which the hearing of the suit *ex parte* shall have been adjourned, shall appear and assign good cause for his previous non-appearance, he may, upon such terms as the Court may direct as to costs or otherwise, be heard in answer to the suit, in like manner as if he had appeared on the day fixed for his appearance. (S. C. C. & R. C.)

**164.** If the plaintiff shall appear and the defendant shall not appear, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes. (S. C. C. & R. C.)

**165.** If the plaintiff shall appear and the defendant shall not appear, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable him to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant. (S. C. C. & R. C.)

**166.** If the defendant shall appear and the plaintiff shall not appear, the Court shall pass a decree against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass a decree against the defendant upon such admission. (S. C. C. & R. C.)

**167.** When a decree is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action. (S. C. C. & R. C.)

**168.** If there are more plaintiffs than one,

Procedure in case of non-attendance of one or more of several plaintiffs. and one or more of them shall appear in person or by an Advocate or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person nor by an Advocate nor by a co-plaintiff duly authorized, the Court may proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and pass such order as may seem just. (S. C. C. & R. C.)

**169.** If there are more defendants than one,

Procedure in case of non-attendance of one or more of several defendants. and one or more of them shall appear in person or by an Advocate or by a co-defendant duly authorized, and the others of them shall not appear in person or by an Advocate or by a co-defendant duly authorized, the Court shall proceed with the suit, and shall at the time of passing judgment make such order with respect to the defendant or defendants who shall not have appeared as shall seem just. (S. C. C. & R. C.)

**170.** If a plaintiff or defendant who shall

Consequence of non-attendance, without sufficient cause shown, of party ordered to appear in person. have been ordered to appear in person under the provisions of Section 73 or Section 74 shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants, respectively, who do not appear. (S. C. C. & R. C.)

**171.** In support of the cause shown by a

Court to receive written declaration in support of cause shown for failure to appear. plaintiff or defendant for failing to appear in person, the Court shall receive any declaration in writing on paper, which shall bear the stamp required for petitions to the Court where a stamp is required for petitions, signed by such plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints. (S. C. C. & R. C.)

**172.** In any case in which a decree shall be

Setting aside decree *ex parte* against defendant. passed *ex parte* against a defendant under Section 166, he may within a reasonable time, not exceeding thirty days after any process for enforcing the decree has been executed, apply to the Court by which the decree was made for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, and, if in a suit involving a claim to money, the amount with costs be paid into Court, the Court shall pass an order to set aside the decree upon such terms as to costs or otherwise as it shall think fit, and shall appoint a day for proceeding with the suit. (S. C. C. & R. C.)

**173.** In any case in which a decree is passed

Setting aside judgment by default against plaintiff. against a plaintiff by default under Section 166, he may within thirty days from

the date of the decree apply for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the decree upon such terms as to costs or otherwise as it shall think fit, and shall appoint a day for proceeding with the suit. (S. C. C. & R. C.)

**174.** No decree shall be set aside on any

No judgment to be set aside, without notice to opposite party. such application as aforesaid, unless notice thereof shall have been served on the opposite party. (S. C. C. & R. C.)

**175.** In every case in which the Court shall

Order for setting aside judgment to be final. pass an order under Section 172 or Section 173, for setting aside a decree, the order shall be final. (S. C. C. & R. C.)

## OF PAYMENT INTO COURT.

**176.** The defendant in any suit involving a

Deposit by defendant of amount considered by him to be in full satisfaction of claim, with costs up to date. claim to money, may at any stage of the suit deposit in Court such sum of money as he considers a satisfaction in full of the claim including the costs incurred by the plaintiff, up to the time of such deposit. Notice of the deposit shall be given to the plaintiff, and the amount of the deposit shall be paid to him on his application. Notice of deposit. No interest shall be allowed to the plaintiff on any sum deposited by the defendant from the date of the receipt of such notice, whether the sum deposited be in full of the claim or fall short thereof (S. C. C. & R. C.)

**177.** Nothing in the last preceding Section

Plaintiff may proceed for sum claimed in excess of amount deposited by defendant. shall be held to bar the plaintiff in any suit, in which the defendant shall deposit less than the amount claimed by the plaintiff, from proceeding in the suit for the recovery of the balance. (S. C. C. & R. C.)

## OF WRITTEN STATEMENTS.

**178.** The parties at the first hearing of the

Written statements. suit, may tender written statements of their respective cases, and the Court shall receive and record such statements.

**179.** Written statements shall be on the stamp

Written statements to be on stamp paper. paper prescribed for petitions to the Court, where a stamp is required for petitions.

**180.** If in a suit for a debt the defendant

Particulars of set-off to be given in a written statement. desire to set-off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, and a suit for the recovery of the amount of such debt is not barred by the law of limitations, the defendant shall, at the first hearing of the suit, but not



proceed to frame and record the issues of law and fact on which the right decision of the case shall appear to the Court to depend.

**205.** The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or of any persons present on their behalf or from the representations of their Advocates, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered in the suit.

Issues may be framed from oral statements of parties and others.

**206.** If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person not before the Court, or without the inspection of some document not produced in the suit, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of any person or the production of any document by the person in whose hands it may be, by summons or other process.

Court may examine witnesses or documents before framing issues.

**207.** The Court may at any time before passing a decree amend the issues or frame additional issues on such terms as it shall think fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Amendment of issues.

Additional issues.

#### OF ISSUES BY AGREEMENT OF PARTIES.

**208.** When the parties to a suit are agreed as to the question of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement and in dispute in the suit shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or abstain from doing some particular act, specified in the agreement, and relating to the matter in dispute.

Questions of fact or law may by agreement be stated in the form of an issue.

**209.** If the Court shall be satisfied, after making such enquiry as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bond fide* interest in the decision of such question as aforesaid, and that the same is fit to be tried and decided, it may proceed to record and try the issue, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may upon the finding or decision on

Court if satisfied that the agreement was executed *bond fide* may give judgment.

such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

#### WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

**210.** If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are not at issue on any question of law or fact.

**211.** Where there are more defendants than one, and any one of the defendants is not at issue with the plaintiff on any question of law or fact, the Court may at once give judgment for or against such defendant, and the suit shall proceed only against the other defendants.

If one of several defendants be not at issue with the plaintiff on any question of law or fact.

**212.** When the parties are at issue on some question of law or of fact, and issues have been framed by the Court as herebefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties can at once supply is required upon any such of the issues or law or of fact as may be sufficient for the decision of the suit, and that no injustice will result from proceeding with the suit forthwith, the Court may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence, or for such further argument as the case may require.

If the parties are at issue on questions of law or fact.

**213.** If the summons shall have been issued for the final disposal of the suit, and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment. (S. C. C. & R. C.)

If either party fails to produce his evidence, Court may make decree.

**214.** After the issue of such summons, if the Court is unable to give judgment at the first hearing of the suit by reason of additional evidence being required, or for any other cause, the Court shall frame the issues of law and fact requiring to be determined as provided in Section 204.

Procedure where Court cannot give judgment at first hearing.

#### OF ADJOURNMENTS.

**215.** The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of

Court may grant time, or adjourn hearing.

the suit. In all such cases the Court shall fix a day for the further hearing of the suit: Provided

Costs of adjournment. that the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct: Provided also that when the hearing of evidence shall have once begun, the hearing of the suit shall not be adjourned at the application of any of the parties except from day to day when all the witnesses cannot be examined on the same day. (S. C. C. & R. C.)

**216.** If, on any day to which the hearing of the suit is adjourned, the parties or either of them shall fail to appear on day fixed. Procedure if parties fail to appear on day fixed. not appear, the Court may proceed to dispose of the suit in the manner specified in Section 160, Section 162, or Section 166, as the case may be, or make such other order as may seem proper. (S. C. C. & R. C.)

**217.** If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act necessary to the further progress of the suit, for which time may have been allowed, the Court may proceed to a decision of the suit on the record, notwithstanding such default. (S. C. C. & R. C.)

#### OF SUMMONING PERSONS TO GIVE EVIDENCE OR PRODUCE DOCUMENTS.

**218.** The parties may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to persons to attend either to give evidence or to produce a document, and in any such summons the names of any number of persons may be inserted. (S. C. C. & R. C.)

**219.** The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable to defray the travelling and other expenses of the person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. (S. C. C. & R. C.)

**220.** If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) laid down by the Court to which such Court shall be subordinate. (S. C. C. & R. C.)

**221.** The sum so paid into Court shall be tendered to the person named in the summons at the time of serving the summons if it can be served personally. (S. C. C. & R. C.)

**222.** If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the person named in the summons in passing to and from the Court is not sufficient to cover such expenses, and for one day's attendance, the Court may direct such further sum to be paid to such person as may appear to be necessary on that account; and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same; or the Court may discharge the person summoned without requiring him to give evidence. (S. C. C. & R. C.)

**223.** If it shall be necessary to detain the person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned, to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and in default of such deposit being made, may order him to be discharged without requiring him to give evidence. (S. C. C. & R. C.)

**224.** Every summons for the attendance of a person to give evidence or produce a document shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the person summoned may be called on to produce, shall be described in the summons with convenient certainty. (S. C. C. & R. C.)

**225.** Any person, whether a party to the suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same. (S. C. C. & R. C.)

**226.** The summons shall be in the form contained in the Schedule D to this Code annexed or to the like effect. (S. C. C. & R. C.)

#### SERVICE OF SUMMONS ON PERSONS REQUIRED TO GIVE EVIDENCE OR PRODUCE DOCUMENTS.

**227.** Every summons to a person to give evidence or produce a document shall be served by exhibiting the original, and delivering or tendering a copy to him. (S. C. C. & R. C.)

**228.** The service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the person summoned to allow him a reasonable time for preparation, and for

travelling to the place at which his attendance is required. (S. C. C. & R. C.)

**229.** Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when such person cannot be found, the service may be made on an adult male member of his family residing with him. (S. C. C. & R. C.)

**230.** When the person required to attend cannot be found and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from which it issued with an endorsement thereon that he has been unable to serve it.

*Explanation.*—A servant is not a member of the family within the meaning of this or the last preceding Section. (S. C. C. & R. C.)

**231.** The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when and the manner in which it was served. (S. C. C. & R. C.)

**232.** If the person required to attend be resident within the jurisdiction of any Court other than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending to any Court other than a High Court having jurisdiction at the place where the witness resides, by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the proper Officer of such Court, to be served in the manner above directed. Upon the return of the summons by the serving Officer, it shall be sent to the Court from which it originally issued. (S. C. C. & R. C.)

**233.** If the summons for the attendance of a person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon being satisfied that the evidence of such person or the production of the document is material, and that he is absconding or keeping out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring his attendance to give evidence, or produce the document, at a time and place to be named therein, to be affixed on some conspicuous place of the house in which he is dwelling; and if he shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the movable property of the person whose attendance is required to such amount as the Court shall deem reasonable, not being in excess of the amount

of the costs of attachment and of any fine to which he may be liable under the provisions of Section 235. (S. C. C. & R. C.)

**234.** If, on the attachment of his property, such person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. (S. C. C. & R. C.)

**235.** If the person whose attendance is required shall not appear, or appearing, shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court may order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such person under the provisions of the Indian Penal Code or any other law for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the person whose attendance is required shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment. (S. C. C. & R. C.)

#### OF THE EXAMINATION OF PARTIES AS WITNESSES.

**236.** When a party to suit appears in person at any hearing of the suit, he may be examined as a witness, either on his own behalf or on behalf of any other party to the suit, in the same manner as if he were not a party. (S. C. C. & R. C.)

**237.** If a party to a suit shall require to enforce the appearance of any other party thereto as a witness, he shall make a special application to the Court for an order requiring the appearance of such party, and shall show, to the satisfaction of the Court, sufficient ground in support of such application otherwise a summons shall not be issued. (S. C. C. & R. C.)

**238.** The Court, before making such order, may cause notice to be given to the party whose appearance is required, fixing a day for him to show cause why he should not appear and give evidence; and may also from time to time, for sufficient reason enlarge the time for such purpose. (S. C. C. & R. C.)

**239.** In support of the cause shown, the Court shall receive any declaration in writing of the party on unstamped paper, if signed by him and verified in the

manner hereinbefore provided for the verification of plaints. (S. C. C. & R. C.)

**240.** If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to appear and give evidence. (S. C. C. & R. C.)

**241.** If the Court shall think it necessary to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord at any stage of the suit, cause him to be summoned to appear as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine him as a witness, or may cause him to be examined in such other manner as the Court may direct. (S. C. C. & R. C.)

#### OF THE EXAMINATION BY THE COURT OF STRANGERS TO THE SUIT.

**242.** If the Court shall at any time think it necessary to examine any person other than a party to the suit, and not named as a witness by a party to the suit, the Court may, of its own accord, cause such person to be summoned as a witness to give evidence, or to produce any document in his possession on a day to be appointed, and may examine such person as a witness. (S. C. C. & R. C.)

#### OF QUESTIONS RESPECTING RELIGION OR CUSTOM.

**243.** In any suit pending in any Court subordinate to the District Court, in which any question relating to the law of the religion or the established customs of the parties or any of them shall arise, the Court may either take the evidence of any person learned in such law or customs, or may refer to any recognized authority thereupon, or may receive from any of the parties, a written opinion of any other person quoting or referring to any such authority; or the Court may, of its own accord, or on the application of any of the parties, refer the question, with a statement of such of the circumstances of the case as may appear necessary for the elucidation of the same, for the opinion of the District Court.

**244.** The District Court may either decide the question so referred to it on evidences, or on any recognized authority or opinion as aforesaid taken, referred to, or received by it; or may of its own motion, or on the application of any of the parties, refer the question, with the statement of the case received from the Court below, for the opinion of the High Court.

**245.** The District Court may proceed in the manner aforesaid in respect to any question of law relating to the religion or customs of the parties or any of them, arising in any suit pending in such Court.

**246.** Whenever any such question as aforesaid may be referred for the opinion of the High Court, or whenever any such question as aforesaid may arise in any suit pending before the High Court, such Court may take the evidence of any person learned in the particular law or custom to which the question relates, or refer to any recognized authority thereupon, or receive from the parties or any of them a written opinion of any other person quoting or referring to any such authority.

**247.** Whenever any question may be referred as aforesaid for the opinion of the District Court, or of the High Court, the Court making such reference shall postpone its decision in the suit in which such question shall have arisen, until the receipt of the opinion of the District Court or of the High Court as the case may be, upon the question so referred.

**248.** The Court to which the question is referred shall fix an early day for determining the same, which day shall be notified by a proclamation to be fixed up in the Court House. The parties to the suit in which such reference is made may appear and be heard on the question referred.

**249.** The Court shall transmit a copy of its decision, under the signature of the Judge or Registrar or Clerk of the Court and under the seal of the Court to the Court by which the reference was made, and such Court shall proceed to dispose of the question so referred conformably to such decision.

**250.** If the suit is pending in a Court subordinate to the District Court, and the District Court shall have made a reference to the High Court, the decision of the High Court shall be communicated to the Court in which the suit is pending, through the District Court by which the reference was made.

**251.** Costs, if any, consequent on a reference under the foregoing provisions, shall be costs in the suit.

**252.** When any case in which the District Court shall have given an opinion on a question referred to it under Section 243 shall come in appeal before such Court, and the same point shall arise upon the



hearing of such appeal, the opinion so given shall be treated as binding upon the Court. Provided that if the Judge shall see reason to alter such opinion, or if the parties to the suit agree in requiring him to refer the point for the decision of the High Court, he may refer such point accordingly with his own opinion thereon.

**253.** In any case in which the High Court may have given an opinion on a question referred to such Court under Section 244 or Section 245, the opinion so given shall not be treated as binding upon the High Court in the event of the case coming thereafter before the Court in either regular or special appeal.

**254.** Questions referred under Section 244 and Section 245 for the opinion of the High Court shall be determined by not less than two Judges of such Court sitting together.

#### ATTENDANCE OF WITNESSES AND CONSEQUENCE OF NON-ATTENDANCE.

**255.** Any person, who shall be summoned to appear and give evidence in a suit, shall be bound to attend at the time and place named in the summons for that purpose. (S. C. C. & R. C.)

**256.** If any person on whom a summons to give evidence or produce a document shall have been served shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended and brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 233, 234, and 235, with respect to any person on whom the service of a summons cannot be effected. (S. C. C. & R. C.)

**257.** If any person attending or being present in Court shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit him to jail for such time as it may deem proper, unless he shall, in the mean time, consent to give his evidence or to produce the document. If after the expiration of such time he shall persist in his refusal, the Court may proceed to deal with him according to the provisions of the Indian Penal Code or any other law for the punishment of persons refusing to give evidence. (S. C. C. & R. C.)

**258.** If any person being a party to the suit, who shall be ordered to attend to give evidence or produce a document shall, without lawful excuse, fail to comply with such order, or, attending or being

present in Court shall, without lawful excuse, refuse to give evidence or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass a decree against him, or make such other order in relation to the suit as the Court may deem proper. (S. C. C. & R. C.)

**259.** Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court in the same manner as a party or witness, as the case may be, would be liable, under any of the provisions hereinbefore contained, to be dealt with for any refusal to obey the order of the Court. (S. C. C. & R. C.)

#### OF THE EXAMINATION OF WITNESSES.

**260.** On the day appointed for the hearing of the suit or on any other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing and under the personal direction and superintendence of the Judge. (S. C. C. & R. C.)

**261.** If a witness be about to leave the jurisdiction of the Court or if other sufficient cause be shown to the satisfaction of the Court why his examination should be taken immediately, the Court may, upon the application of either party or of the witness, at any time after the institution of the suit, take the examination of such witness forthwith or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his evidence shall be taken down in writing, in the manner hereinafter provided for the examination of witnesses; and the evidence so taken down may be read in evidence at any hearing of the suit. (S. C. C. & R. C.)

**262.** In cases in which a regular appeal is allowed, the evidence of each witness shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and shall, if necessary, be corrected, and shall be signed by the Judge. (R. C.)

**263.** The Local Government may order that the evidence of witnesses in any District or in any class of Courts in any District included in the Territories of such Local Government shall be taken down by the

Judge with his own hand in his vernacular language. When any such Judge is prevented by any sufficient reason from taking down the evidence of any witness, he shall record the reason of his inability to do so, and shall cause the evidence to be taken down in writing from his dictation in open Court. Any such order may be cancelled. (R. C.)

**264.** If the evidence be taken down in a language different from that in which it shall have been given, and the witness does not understand the language in which it is taken down, the evidence as taken down in writing shall be interpreted to him in the language in which it was given. (R. C.)

**265.** If in a Court in which English is not the language in ordinary use the parties to the suit who are present, and the Advocates of such as are absent, consent to have such evidence as is given in English taken down in that language, the Judge may take down the evidence in English with his own hand. (R. C.)

**266.** It shall be in the discretion of the Court to take down or cause to be taken down, any particular question and answer may be taken down. If there shall appear any special reason for so doing, or if any party to the suit or his Advocate shall require it. (R. C.)

**267.** If any question put to a witness be objected to, the question, whether the Court allow or forbid it to be put, shall be taken down. The answer shall also be taken down if the Court allow the question to be put; and the objection and the name of the party making it shall be noticed in taking down the evidence, together with the decision of the Court upon the objection. (R. C.)

**268.** The Court may record such remarks as it may think material respecting the demeanour of any witness while under examination. (R. C.)

**269.** In cases in which the evidence is not taken down in writing by the Judge, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (R. C.)

**270.** In cases in which a regular appeal is not allowed, it shall not be necessary to take down the evidence of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what each witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. (S. C. C. & R. C.)

**271.** If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases in which a regular appeal is not allowed, he shall cause such memorandum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record. (S. C. C. & R. C.)

#### OF COMMISSIONS TO EXAMINE ABSENT WITNESSES, TO MAKE LOCAL ENQUIRIES, AND TO INVESTIGATE ACCOUNTS.

**272.** No person shall be bound to appear in person to give evidence in a Court if he reside at a place distant more than fifty miles from the place at which the Court is held, unless the Court shall specially order that he shall appear, nor in any case if he reside at a place distant more than one hundred miles from the place at which the Court is held: Provided that if Railway communication exist between the place at which he resides and the place where the Court is held, or within a convenient distance from such places, the Court shall have a discretion as to making such order. (S. C. C. & R. C.)

**273.** The Court, on making an order for the attendance of a witness residing at a distance exceeding fifty miles by the ordinary means of communication from the place where the Court is held, shall record the reasons for making such order. (S. C. C. & R. C.)

**274.** The Court may order a Commission to issue for the examination on interrogatories or otherwise of any person who, under Section 272, is not bound to attend the Court, or who is required to give evidence only on a question relating to the law of the religion or established customs of the parties or any of them under Section 243, or Section 244, or Section 246, or who is from sickness or infirmity unable to attend, or who is a person exempted by any law for the time being in force, by reason of rank or sex, from appearing in Court. (S. C. C. & R. C.)

**275.** Such order as aforesaid may be made by the Court either of its own motion or on the application of any party to the suit or of the witness. The Court may, by the same or any subsequent order, give such directions as to taking the examination of an absent witness as shall seem proper. (S. C. C. & R. C.)

**276.** If a Commission be issued for the examination of a person who is resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court or to any Court subordinate to such Court, or to

any other person whom the Court issuing the Commission may think proper to appoint to execute the same (S. C. C. & R. C.)

**277.** If the person be resident at some place in British India beyond the jurisdiction of the Court issuing the Commission, the Commission shall ordinarily be issued to any Court, not being a High Court, within whose jurisdiction he may reside, and which can most conveniently execute the same: Provided that, under special circumstances, the Commission may be issued to any person whom the Court issuing it may think proper to appoint. (S. C. C. & R. C.)

**278.** If the person be resident beyond the jurisdiction of the Court issuing the Commission and within the local limits of the ordinary original Civil jurisdiction of any High Court, the Commission shall be issued to the Court of Small Causes within whose jurisdiction the witness resides, or to any Court other than a High Court which may now exist or may hereafter be established with jurisdiction within the same local limits: Provided that, under special circumstances, the Commission may be directed to any person whom the Court issuing the Commission may think proper to appoint. (S. C. C. & R. C.)

**279.** In the case of a person resident at some place not within British India, but within the territories of a Native Prince or State in alliance with the British Government, the Court, if satisfied that the evidence of such person is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission for his examination: Provided that, if the suit be pending in any Court subordinate to the District Court, such subordinate Court shall not issue the Commission, but the District Court may issue the Commission on the application of the subordinate Court. (S. C. C. & R. C.)

**280.** In the case of a person resident at some place neither within British India nor within the territories of a Native Prince or State in alliance with the British Government, the High Court, if the suit in which the evidence of the witness is required be pending in that Court, and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission for his examination. If the suit be pending in a Court subordinate to the High Court, the High Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases the Commission may be issued to any person whom the High Court may think proper to appoint.

**281.** If a person, whether he be a party to the suit or not, whose evidence is required, is in jail, the Court may issue a Commission to examine witness in jail.

mission to any Officer of the Court or other person to take the evidence of such person either upon written interrogatories or otherwise, and the Commissioner shall proceed to the jail in which such person is confined, and take his evidence in accordance with the instructions given by the Court in any part of the jail which the Officer in charge of the jail shall appoint. (S. C. C. & R. C.)

**282.** The examination of the person in jail whose evidence is required shall be taken in the presence of the parties to the suit or their Advocates or Agents or any of them, and such parties, Advocates or Agents, shall be allowed to cross-examine such person. The Officer in charge of the jail or some person appointed by him shall be present during the examination. (S. C. C. & R. C.)

**283.** If the jail in which the person whose evidence is required is confined, is not within the local limits of the jurisdiction of the Court in which the suit is brought, the Court may issue a Commission to any Court, other than a High Court, having jurisdiction at the place where such jail is situated, and the Court to which the Commission is issued shall proceed as provided in Section 281, the provisions of which as well as of Section 282 shall apply in such case. (S. C. C. & R. C.)

**284.** After the Commission has been duly executed, it shall be returned, together with the evidence taken under it, to the Court out of which it issued, unless the order for issuing the Commission shall have otherwise directed, in which case the Commission shall be returned in terms of such order, and the Commission and the return thereto, and the evidence taken under it, shall form part of the record of the suit. (S. C. C. & R. C.)

**285.** Evidence taken under a Commission shall not be read as evidence in the suit without the consent of the party against whom the same may be offered, unless it be proved that the person who gave the evidence is beyond the jurisdiction of the Court, or dead or unable from sickness or infirmity to attend to be personally examined, or exempted by reason of rank or sex or by the provisions of Section 272 from personal appearance in Court, or unless the evidence is on a question relating to the law of the religion or established customs of the parties or any of them. (S. C. C. & R. C.)

**286.** The Court may at its discretion dispense with the proof of any of the circumstances mentioned in the last preceding Section, or may authorize the evidence of any person being read as evidence in the suit, notwithstanding proof that the cause for taking such evidence by Commission has ceased at the time of reading the same. (S. C. C. & R. C.)

**287.** In any suit in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating any matter in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. (S. C. C. & R. C.)

**288.** If in any case it shall appear desirable to employ an Officer of Government other than the Commissioner, the Court may, with the consent of the immediate superior of the Officer whom the Court shall wish to employ, appoint him to make such investigation and report. (S. C. C. & R. C.)

**289.** The Commissioner, unless otherwise directed by the order of appointment, shall have power to examine the parties themselves and any witness whom they or any of them may produce, and any other person whom the Commissioner may think proper to call upon to give evidence in the matter referred to him. The Commissioner may also call for and examine documents and other papers relevant to the subject of enquiry. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the evidence of witnesses in the presence of the Judge, the evidence taken by him, shall return such evidence, together with his report in writing, subscribed with his name, to the Court. (S. C. C. & R. C.)

**290.** The report of the Commissioner and the evidence taken by him shall be evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court touching any of the matters referred to him or mentioned in his report, or as to the manner in which he may have conducted the investigation. (S. C. C. & R. C.)

**291.** In any suit in which an investigation or adjustment of accounts may be necessary, the Court may appoint such Officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment. (S. C. C. & R. C.)

**292.** The Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary, and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. (S. C. C. & R. C.)

**293.** The proceedings of the Commissioner shall be received in evidence in the suit, unless the Court may have reason to be dissatisfied with them, in which case the Court shall direct such further enquiry as may be requisite, and shall make such decree or order as may appear to be proper. (S. C. C. & R. C.)

**294.** Whenever a Commission is issued under any of the foregoing provisions, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued. (S. C. C. & R. C.)

**295.** The provisions of this Code relating to the summoning, attendance, and examination of witnesses and to the remuneration of, and penalties to be imposed upon, witnesses, shall apply to persons required to give evidence or to produce documents under the foregoing provisions relating to Commissions to examine persons whether parties to the suit or not, or make local enquiries, or to investigate or adjust accounts. Any penalty to which a witness may be liable under this Section, shall be imposed by the Court from which the Commission issued, on the application of the Commissioner. The Commissioner shall have the same powers, so far as he can exercise the same, as regards the summoning, examination, and remuneration of witnesses as the Court issuing the Commission. (S. C. C. & R. C.)

**296.** Whenever a Commission shall be issued under the provisions of this Chapter, the Court shall direct that the parties to the suit shall appear before the Commission in person or by their Agents or Advocates. If the parties do not so appear the Commissioner may proceed *ex parte*. (S. C. C. & R. C.)

#### OF ASSESSORS.

**297.** In any Court to which the provisions of this Section and of the next succeeding Section shall be extended by an order of the Local Government to be notified in the Official Gazette, the Court may order the hearing of any suit to be conducted in the presence and with the aid of two or more Assessors as members of the Court. The Court shall have power to appoint such Assessors. (S. C. C.)

**298.** The opinion of each Assessor, if given orally, shall be recorded in writing by the Court; but such opinion shall be in no way binding upon the Judge, with whom exclusively the decision of the suit shall rest. (S. C. C.)



## OF THE OATH OF THE PARTIES.

**299.** If the parties shall agree in writing that the decision shall rest on the statement whether on oath affirmation or otherwise of any one or more of the parties or of any other person, the Court may pass a decree accordingly. Such agreement may be on plain paper.

Power to decide  
suit on statement on  
oath.

## OF JUDGMENT AND DECREE.

**300.** The Court after inspecting the documentary evidence and examining the witnesses of the parties and hearing the parties in person or by their respective Advocates, shall pronounce judgment in open Court either at once or on some future day, of which due notice shall be given to the parties or their Advocates. (S. C. C. & R. C.)

**301.** The judgment shall be written in the vernacular language of the Judge: Provided that if such language be not English and the Judge be sufficiently conversant with the English language to be able to write a decision in that language, and prefer so to write it, the judgment may be written in English. (S. C. C. & R. C.)

**302.** Whenever the judgment is written in any language other than that in ordinary use in proceedings before the Court, the judgment shall be translated into the language in ordinary use in such proceedings, and the translation shall also be signed by the Judge: Provided that if the judgment be written in English, it shall not be necessary to make a translation of it in suits in which a regular appeal is not allowed, unless any of the parties shall require such translation. (S. C. C. & R. C.)

**303.** The judgment shall be dated and signed by the Judge in open Court at the time of pronouncing it. (S. C. C. & R. C.)

**304.** The judgments of the Courts of Small Causes shall not be required to contain more than the points for determination and the decision thereupon. The judgments of all other Courts shall, in addition to the points for determination and the decision thereon, contain the reasons for such decision. (S. C. C. & R. C.)

**305.** In suits in which issues have been framed, the Court shall state its finding or decision, with the reasons thereof, upon each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Court to state its  
decision on each issue.

Exception.

**306.** The judgment shall direct by whom the costs of each party are to be paid, whether by himself or by any other party to the suit, and whether in whole or in what part or proportion. The Court shall have full power to award and apportion the costs in any manner it may deem proper. (S. C. C. & R. C.)

Judgment to direct  
by whom costs are to  
be paid.

**307.** The Court may direct that the costs payable to one party by another shall be set-off against a sum which the former shall admit to be due from him to the latter. (S. C. C. & R. C.)

Costs may be set-off  
against sum admitted  
to be due.

**308.** The Court may give interest on costs at six per cent. per annum, and direct that costs, with or without interest, be made a charge on the subject-matter of the suit. (S. C. C. & R. C.)

Interest on costs.  
Costs may be charg-  
ed on subject-matter  
of suit.

**309.** The decree shall bear date the day on which the judgment was pronounced. (S. C. C. & R. C.)

Date of decree.

**310.** The decree shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court. (S. C. C. & R. C.)

Contents of decree.

**311.** When the suit is for immovable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or other property decreed.

Decree for recovery  
of portion of immov-  
able property.

**312.** A memorandum of such decree shall, in pursuance of the forty-fifth Section of Act XVI of 1864, (to provide for the Registration of Assurances), be sent to every District Registrar within the local limits of whose jurisdiction such immovable property or any part thereof is situate.

Memorandum of de-  
gree to be sent to Dis-  
trict Registrar.

**313.** When the suit is for movable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had. (S. C. C. & R. C.)

Decree for delivery  
of movable property.

**314.** When a suit has been brought to compel specific performance of a contract, if it appear to the Court that the consideration is adequate, that the contract is reasonably certain, that the defendant

Circumstances in  
which specific per-  
formance may be en-  
forced.

is able to perform it, and that the performance would not impose extreme and immoderate hardship upon him, the Court may declare that the contract shall be specifically performed, and decree the same accordingly. (S. C. C.)

**315.** The Court may also declare that, in the event of the contract not being specifically performed, the defendant shall pay to the plaintiff as damages a sum of money to be assessed by the Court in substitution for such performance. Such damages shall be recoverable at the option and on the application of the plaintiff. (S. C. C.)

**316.** If it shall appear that the defendant is unable to perform the contract, or that, though he may be able to perform it, the consideration is greatly inadequate, or that the contract is not reasonably certain, or that the result of performing it would impose extreme and immoderate hardship upon him, the Court may declare that the defendant shall pay to the plaintiff damages to be assessed in such manner as the Court shall direct: Provided that the Court may decree as liquidated damages any sum that the parties may have agreed should be paid in the event of a breach of the contract, without reference to the extent of the injury sustained.

*Explanations (a).—*The adequacy of the consideration is to be judged with reference to the time at which the contract was made.

*(b).—*The certainty required must be a reasonable one, having regard to the subject-matter of the contract, and the circumstances in and with reference to which it was entered into. (S. C. C.)

**317.** When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court, with the consent of the plaintiff, may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed. (S. C. C.)

**318.** When the suit is for a sum of money due to the plaintiff, the Court may, in the decree, order interest at such rate as the Court may think proper to be paid on the principal sum adjudged from the date of suit to the date of the decree, in addition to any interest adjudged on such principal sum for any period prior to the date of suit, with further interest on the aggregate sum so adjudged and on the costs of the suit from the date of the decree to the date of payment. (S. C. C. & R. C.)

**319.** In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest. (S. C. C. & R. C.)

**320.** When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent in respect of such property from the date of the suit until the date of delivery of possession to the party in whose favour the decree is made, with interest thereupon at such rate as the Court may think proper.

**321.** When the suit is for land and for mesne profits which have accrued on the land during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

**322.** If the defendant shall have set-off the amount of a debt against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules in respect of appeal or otherwise as if such sum had been claimed by the defendant in a separate suit against the plaintiff. (S. C. C.)

**323.** When a decree is passed for a sum of money only and the amount decreed shall not exceed the sum of one thousand rupees, the Court may, at the same time that it passes the decree, on the verbal application of the party in whose favour the decree is made, order immediate execution thereof by the issue of a warrant directed either against the person of the defendant if he is within the local limits of the jurisdiction of the Court, or against the personal property of the defendant within the same limits. (S. C. C. & R. C.)

**324.** If the warrant be directed against the movable property of the defendant, it may be general against any of his movable property wherever it may be found within the local limits of the jurisdiction of the Court, or special against any of his movable property within the same limits which shall be indicated by the party in whose favour the decree is made. (S. C. C. & R. C.)

**325.** Certified copies of the decree and judgment or of either the decree or judgment shall be furnished to the parties on application to the Court, and on the production of the necessary stamp paper for making such copies where a stamp is required by law. The application may be made either orally or by writing on unstamped paper. Copies of the decree and

judgment may be taken on the same sheet of stamp paper if it be capable of containing them. (S. C. C. & R. C.)

## CHAPTER V.

### OF THE EXECUTION OF DECREES.

**326.** If the decree be for any immovable property, possession thereof shall be delivered over to the party to whom it shall have been adjudged. (R. C.)

**327.** If the decree be for any specific movable, it shall be enforced by the seizure, if practicable, of the specific movable and by the delivery thereof to the party to whom it shall have been adjudged.

**328.** A decree for the specific performance of a contract may be enforced by the imprisonment of the party against whom the decree is made, or by the attachment of his property, or by both the imprisonment of the party and the attachment of his property. The imprisonment and attachment may be continued until the party against whom the decree is made shall comply with the terms of it, or for such time as the Court shall order: Provided that no person shall be imprisoned under this Section for a longer period than six months. (S. C. C.)

**329.** Payment of a sum of money ordered to be paid under Section 313, Section 315 or Section 316 shall be enforced in the manner hereinafter provided for the execution of a decree for money. (S. C. C. & R. C.)

**330.** If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both. (S. C. C. & R. C.)

**331.** If in any suit a decree for money is passed against a plaintiff, the decree may be enforced against him in the same manner as a decree may be enforced against a defendant. (S. C. C.)

**332.** If the decree be for the execution of a conveyance, or for the endorsement of a negotiable instrument, and the party ordered to execute such conveyance or endorse such instrument shall neglect or refuse to comply with the order, the party in whose favour the decree is made may prepare the draft of a conveyance or endorsement in accordance with the terms of the decree, and deliver a copy of the draft to the party so ordered to execute or endorse and tender another copy of the same to the Court for execution upon the proper stamp paper if a stamp is required by law. The Court shall thereupon execute such draft

conveyance or endorsement and if it think fit, may, alter the same in accordance with the terms of the decree and execute the conveyance or endorsement so altered: Provided that if either party object to the draft so tendered as aforesaid, his objections shall within eight days of such delivery be stated in writing and argued before the Court, and the Court shall thereupon pass such order as it may think fit and execute or alter and execute the draft in accordance therewith. (S. C. C. & R. C.)

**333.** The execution of a conveyance or the Form and effect endorsement of a negotiable instrument by the Court under execution of conveyance by Court. the last preceding Section shall be in the following form—"C. D. Judge of the Court of (or as the case may be) for A. B., in a suit by E. F. against A. B.—" and shall have the same effect as the execution of the conveyance or endorsement of the instrument by the party ordered to execute or endorse the same. (S. C. C. & R. C.)

**334.** If the decree be against Government or against an Officer acting on behalf of Government, and the Officer against whom execution is applied for neglect or refuse to satisfy the decree, the Court, if it be a subordinate Court, shall report the case through the High Court for the orders of the Local Government. If any such decree be passed by the High Court on its original side, the High Court shall in case of such neglect or refusal report the case for the orders of the Local Government. Execution shall not issue on the decree unless the decree shall remain unsatisfied for the period of three months calculated from the date of such report. (S. C. C.)

**335.** If the decree be against a party as the representative of a deceased person, and the decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or if no such property can be found and the defendant fail to satisfy the Court that he has duly applied for such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against him personally. (S. C. C. & R. C.)

**336.** Whenever a person has become liable as surety for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be executed against a defendant. (S. C. C. & R. C.)

**337.** The following property is liable to attachment and sale in execution of a decree, namely, lands, houses or other buildings, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government

securities, bonds or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking or other Public Company or Corporation, and all other property whatsoever, movable or immovable, belonging to the defendant, and whether the same be held in the name of the defendant or by another person in trust for him, or on his behalf: Provided that nothing contained in this Section shall be held to give any Court of Small Causes power to attach and sell in execution of a decree passed by such Court any property which Courts of Small Causes are prohibited by law from attaching and selling in execution of their decrees. (S. C. C. & R. C.)

**338.** All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. (S. C. C. & R. C.)

**339.** Except as provided in the last preceding Section, no adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court, or be certified to the Court by the person in whose favour the decree was passed or to whom it may have been transferred. (S. C. C. & R. C.)

#### APPLICATION FOR EXECUTION.

**340.** When a party in whose favour a decree has been passed is desirous of enforcing it, he shall apply to the Court which passed the decree, or to the Court whose duty it is under this Code or any other law to execute the decree, to execute the same. (S. C. C. & R. C.)

**341.** If a decree shall have been passed in favour of more persons than one, any one of such persons may apply for the execution of the decree, and if the Court shall see sufficient cause for allowing the decree to be executed on an application so made, it shall pass such order as it may deem necessary for protecting the interests of the persons who shall not have joined in the application. (S. C. C. & R. C.)

**342.** If a decree be transferred by assignment or by operation of law from the party in whose favour it was passed to any other person, application for execution may be made by the person to whom the decree shall have been so transferred, and if the Court shall think proper to grant the application, the decree may be executed in the same manner and subject to the same conditions, as if the application were made by the party in whose favour the decree was passed. (S. C. C. & R. C.)

**343.** If cross-decrees between two parties for the payment of money be produced to the Court, and whether or not either of such parties be the original holder or an assignee of the decree, execution

shall be taken out only by the party who shall hold a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum. If the two sums be equal, satisfaction shall be entered upon both decrees. (S. C. C. & R. C.)

**344.** If a suit or appeal be pending in any Court against the holder of a decree of such Court, on the part of the person against whom the decree was passed, the Court may stay execution on the decree either absolutely or on such terms as it may think just, until the pending suit or appeal has been decided. (S. C. C. & R. C.)

**345.** If any person against whom a decree has been passed shall die before it has been fully executed, application may be made for its execution against the representative or the estate of the deceased. (S. C. C. & R. C.)

**346.** Notice of an application under the last preceding Section shall be given to the person named therein as the representative of the deceased or as the person in charge of his estate, and if the Court after hearing such representative or other person against the application, shall think proper to grant the same, the execution may be proceeded with against such representative or estate. (S. C. C. & R. C.)

**347.** If a decree be ordered to be executed against the representative of the party against whom the decree was made, it shall be executed in the manner provided in Section 335 for the execution of a decree for money to be paid out of the property of a deceased person. (S. C. C. & R. C.)

**348.** The application for the execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit; the names of the parties; the date of the decree; whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damage with the interest, if any, due upon the decree, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought, and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, by the arrest and imprisonment of the person named in the application, or by the attachment of his property or otherwise. (S. C. C. & R. C.)



**349.** If the application be for the attachment of any immovable property belonging to the defendant, the application shall contain at the foot such a description of the property as may be sufficient to identify it, and also a specification of the share or interest of the defendant therein to the best of the belief of the applicant and so far as he has been able to ascertain the same.

**350.** If the property be land which, whether it pays revenue to Government or not, is registered in the Collector's Office, the application for attachment shall be accompanied by an authenticated extract from the register of such Office, specifying the persons registered as proprietors of, or as possessing any transferable interest in, the land or its revenue, and (where registered) the shares of the registered proprietors.

**351.** An application for an attachment of the movable property of the defendant or any part thereof, may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description of the same; or the decree-holder may apply for a general attachment of the movable property of the defendant wherever the same can be found, to the amount of the decree and costs. (S. C. C. & R. C.)

**352.** The Court, on receiving an application for the execution of a decree containing the particulars mentioned in Section 348, or such of them as may be applicable to the case, shall enter in the register of the suit a note of the application and the date on which it was made. (S. C. C. & R. C.)

**353.** If the particulars do not correspond with the decree, the Court shall either return the application for correction to the person making it, or shall, with his consent, cause the necessary correction to be made. (S. C. C. & R. C.)

**354.** If the application be admitted, the Court shall order execution of the decree according to the nature of the application. (S. C. C. & R. C.)

#### MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

**355.** If more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the representative of a party to the suit in which the decree was made, the Court shall issue a notice to the party against whom execution is applied for, requiring him to

show cause, within a period to be fixed by the Court, why the decree should not be executed against him: Provided that no such notice shall be necessary

**Proviso.** in consequence of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution: Provided also that no such notice shall be necessary in consequence of the application being against the representative of the party against whom the decree was made, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him. (S. C. C. & R. C.)

**356.** If the person to whom notice is issued Procedure after under the last preceding Section shall not appear, or shall not show cause to the satisfaction of the Court why the decree should not be executed, the Court shall order the decree to be executed. If such person shall offer any objection to the enforcement of the decree, the Court shall pass such order as may appear to be proper. (S. C. C. & R. C.)

**357.** If the application is for a general attachment of the movable property of the party liable under the decree, the Court may, before issuing an order for such attachment, require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any person other than the party liable as aforesaid. (S. C. C. & R. C.)

**358.** Before granting the order for a general attachment, or at the instance of the holder of the decree at any time before its complete execution, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the decree. (S. C. C. & R. C.)

**359.** The Court may, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to any property liable to be seized in satisfaction of the decree, and may require the person summoned to produce any document in his possession or power relating to such property. (S. C. C. & R. C.)

#### ISSUE OF THE WARRANT.

**360.** When the preliminary measures (if Warrant when to any) required by the foregoing provisions have been taken, the Court, unless it see cause to the contrary, shall issue its warrant for the execution of the decree. (S. C. C. & R. C.)

**361.** The warrant for the execution of the decree shall bear the date of the day on which it is issued signed, &c.

and shall be signed by the Judge, or the Registrar or Clerk of the Court, and shall be sealed with the seal of the Court, and delivered to the proper Officer to be executed. (S. C. C. & R. C.)

**362.** If the warrant be for the arrest of the defendant, it shall direct the Officer entrusted with the execution of the warrant to bring the defendant before the Court. (S. C. C. & R. C.)

**363.** A day shall be specified in the warrant on or before which it is to be returned. (S. C. C. & R. C.)

**364.** The Officer entrusted with the execution of the warrant shall endorse thereupon the day on, and the manner in, which it was executed; or if it was not executed, the reason why it was not executed, and shall return the warrant with such endorsement to the Court. (S. C. C. & R. C.)

#### OF THE EXECUTION OF DECREES FOR IMMOVABLE PROPERTY.

**365.** If the decree be for any immovable property in the occupancy of the defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit in which the decree was passed, the Court shall order delivery to be made by putting the party to whom the property shall have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who may refuse to vacate the same.

**366.** If the decree be for any immovable property in the occupancy of a tenant or other person entitled to occupy the same, the Court shall order delivery to be made by affixing a copy of the warrant in some conspicuous place on the property, and proclaiming to the occupant by beat of drum, or in such other mode as may be customary, at some convenient place, the substance of the decree in regard to the property.

**367.** If the decree be for the partition of an estate, or for the separate possession of a share of an undivided estate paying revenue to Government, the partition of the estate or the separation of the share shall be made according to the rules (if any) in force in the District for the partition of an estate paying revenue to Government.

**368.** If in the execution of a decree for any immovable property, the Officer entrusted with the execution of the warrant shall be resisted or obstructed by any person, the person in whose favour the decree was made may complain to the Court at any time within one month from the time of such resistance or obstruction. The Court shall

fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

**369.** If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation, on the ground that the property is not included in the decree or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper.

**370.** If the Court shall be satisfied that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the decree-holder, and without prejudice to any proceedings to which such defendant or other person may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, commit the defendant or such other person to jail for any period not exceeding thirty days which may be necessary to prevent the continuance of such obstruction or resistance.

**371.** If the resistance or obstruction to the execution of the decree has been occasioned by any person other than the defendant, claiming *bond fide* to be in possession of the property on his own account or on account of some person other than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under the Indian Penal Code or any other law for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of Chapter IV, and shall pass such order for staying execution of the decree or executing the same, as it may deem proper.

**372.** If any person other than the defendant shall be dispossessed of any property in execution of a decree and such person shall dispute the right of the holder of the decree to dispossess him of such property under the decree, on the ground that the property was *bond fide* in his possession on his own account or on account of some person other than the defendant, and that it was not included in the decree, or that, if it was included in the decree, he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and

registered as a suit between the applicant as plaintiff and the holder of the decree as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like power as if a suit for the property had been instituted by the applicant against the holder of the decree under the provisions of Chapter IV.

**373.** The order passed under either of Sections 371 and 372 shall be in the nature of, and shall have the same force as, a decree in a suit, and shall be subject to the same conditions as to appeal or otherwise. No fresh suit shall be entertained in any Court between the same parties or persons claiming under them, in respect of the same cause of action: Provided that nothing in the last preceding Section shall prevent any person, instead of applying to the Court as provided therein, from instituting a suit to establish his right to the property of which he may consider himself to have been wrongfully dispossessed.

#### OF THE EXECUTION OF DECREES FOR MONEY BY ATTACHMENT OF PROPERTY.

**374.** If the decree be for money, and the amount of the decree is to be levied from the property of the person against whom the decree shall have been passed, the Court shall cause the property to be attached in the manner hereinafter provided. (S. C. C. & R. C.)

**375.** If the property be movable property in the possession of the defendant, other than the property mentioned in Section 377, the attachment shall be made by actual seizure, and the proper Officer shall, except in the case of perishable articles, which he may sell at once, keep the property in his own custody or in the custody of one of his subordinates, and shall be responsible for the due custody thereof. (S. C. C. & R. C.)

**376.** If the property be movable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant. (S. C. C. & R. C.)

**377.** If the property be a debt, not being a negotiable instrument, or a share in any public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debt and the debtor from making payment thereof to any person until the further order of the Court, or prohibiting the person in whose name the share may be standing from making any transfer of the share or receiving payment of any dividend thereon, and the proper Officer of the

Company or Corporation from permitting any such transfer or making any such payment, until such further order. (S. C. C. & R. C.)

**378.** If the property be immovable, the attachment shall be made by a written order prohibiting the defendant from alienating the property in any way and all persons from receiving the same by purchase, gift or otherwise. (R. C.)

**379.** In the case of movable property not in the possession of the defendant, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. (S. C. C. & R. C.)

**380.** In the case of immovable property, the order shall be read aloud at some place on or adjacent to such property, and a copy of the order shall be fixed up in a conspicuous part of the Court-house. When the property is land or any interest in land, a copy of the order shall also be fixed up in the Office of the Collector of the District in which the land is situate. (R. C.)

**381.** If the property consist of money or of any security in deposit in any Court of Justice or in the hand of any Officer of Government, which is or may become payable or deliverable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security and any interest or dividend becoming payable thereon may be held subject to the further orders of the Court: Provided that if such money or security is in deposit in a Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment or otherwise, shall be determined by the Court in which such money or security is in deposit. (S. C. C. & R. C.)

**382.** If the property consist of a negotiable instrument, the attachment shall be made by actual seizure, and the instrument shall be brought into Court and shall be held subject to the further orders of the Court. (S. C. C. & R. C.)

**383.** If the property consist of a debt, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall also be delivered or sent registered by post to the debtor, or to each debtor when there are more debtors than one. (S. C. C. & R. C.)

**384.** If the property consist of a share in the capital or joint-stock of any public Company or Corporation, a copy of the order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall also be delivered or sent registered by post to the proper Officer of the Company or Corporation. (S. C. C. & R. C.)

**385.** When an attachment shall have been made by actual seizure or by written order as aforesaid, and in the case of an attachment by written order, when it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift or otherwise, and any payment of debt or dividend or share to the defendant during the continuance of the attachment, shall be void as against the party on whose application the attachment was made, if the claim of such party shall not have been satisfied. (S. C. C. & R. C.)

**386.** When a debtor is prohibited under Section 377 from making payment of his debt to the party to whom the money is owing, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the same. (S. C. C. & R. C.)

**387.** If the property attached is money or bank-notes, the Court may, at any time during the attachment, direct that such money or bank-notes or a sufficient part thereof be paid over to the party entitled under the decree to receive the same. (S. C. C. & R. C.)

**388.** The Court may direct that any immovable or movable property not being money or bank-notes which shall have been attached or such portion thereof as may seem necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient portion thereof, shall be paid to the party entitled under the decree to receive the same. (S. C. C. & R. C.)

**389.** When the property attached is land, if the defendant can satisfy the Court that there is reasonable ground to believe that the amount of the decree may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the defendant, the Court may, on the application of the defendant, postpone the sale for such period as it may think proper, to enable him to raise the amount. In such case the Court shall grant a certificate to the defendant authorizing him within a period to be mentioned therein to sell or mortgage the land or to let it on lease. So long as such certificate shall remain in force, the provision contained in Section 355 shall not apply.

**390.** When the property attached consists of debts due to the defendant or of any immovable property, the Court may, instead of ordering the sale of the property, appoint a Manager thereof, with power to sue for the debts, and to collect the rents or other receipts and profits of the property, and to execute such instruments in writing as may be necessary, and to pay and apply such rents, profits or receipts towards the payment of the amount of the decree and costs. Instruments executed by a Manager appointed under this Section shall be of the same force as if executed by the person to whom the debts which such Manager is empowered to recover are due, or to whom the property belongs.

**391.** When a Manager shall be appointed under the last preceding Section, the Court may allow him such fee or commission on his receipts or on the rents and profits of the property by way of remuneration, and may grant him all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits as to the Court may seem proper. The Manager so appointed shall be bound to render correct accounts of his receipts and disbursements from time to time as the Court may direct.

**392.** When in any District in which sales of land paying revenue to Government in execution of decrees for money are ordinarily made by the Collector, the property attached consists of such land or of a share in such land, and the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a sale of the land or share. In any case in which such authority is given, the Court may order that security be taken from the defendant for the amount of the decree.

**393.** If at the time of this Code coming into operation in any part of British India, any special Rules shall be in force in such part imposing conditions in respect to the sale of land in execution of decrees for money, the Local Government may continue such Rules in force or it may from time to time modify the same with the sanction of the Governor-General of India in Council. The Rules so in force shall, on this Code coming into operation in such part of British India, be published in the Official Gazette, and any modification of such Rules which may thereafter be made shall be published in like manner.



**394.** If the amount decreed with costs and all charges and expenses which may be incurred by the attachment of any property be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment. If the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment, and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree. (S. C. C. & R. C.)

#### OF CLAIMS TO ATTACHED PROPERTY.

**395.** If any claim be preferred to, or any objection be made to the sale of attached property, which shall have been attached in execution of a decree, as not liable to be sold in execution of the decree against the defendant, the Court shall, subject to the proviso contained in Section 399, proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector and in all other respects as if he had been originally made a defendant in the suit. (S. C. C. & R. C.)

**396.** If the property attached be immovable and it appear to the satisfaction of the Court that such property was not at the time it was attached in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, or that, being in the possession of the party himself at such time, it was so in his possession, not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the property from attachment. If it shall appear that the property was in possession of such party subject to a mortgage or lien in favour of some other person, the Court shall continue the attachment subject to the claims of such other person. (R. C.)

**397.** If the property attached be immovable and it appear to the satisfaction of the Court that the property was, at the time it was attached, in possession of the party against whom execution is sought as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the Court shall disallow the claim and may order the sale to proceed at such time as it may think proper. (R. C.)

**398.** The party against whom an order is passed under either of the last two preceding Sections shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order. (R. C.)

**399.** A claim to attached property or an objection to the sale of such property, shall be made without delay to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertised for sale, the sale may, if it appear necessary, be postponed pending the investigation into the claim or objection: Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed with a view to obstruct the ends of justice. (R. C.)

**400.** If the claim or objection be disallowed or if the Court refuse to investigate it on the ground of delay in making it, the claimant or objector shall be at liberty to prosecute his claim or objection by a suit subject to the law of limitation. (R. C.)

#### OF SALES IN EXECUTION OF DECREES.

**401.** Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint, and, except as provided in the next following Section, shall be made by public auction in manner hereinafter mentioned. (S. C. C. & R. C.)

**402.** If the property to be sold be a negotiable instrument or of a share in any public Company or Corporation, the Court may, instead of directing the sale to be made by public auction, authorise the sale of such instrument or share through a broker at the market-rate of the day. (S. C. C. & R. C.)

**403.** If the property to be sold be land paying revenue to Government, and the Collector of the District in which the land is situate shall not have been prohibited by the Local Government from selling land in execution of decrees, the sale shall be conducted by such Collector on the requisition of the Court. (R. C.)

**404.** When any property, whether moveable or immoveable, is ordered to be sold by public auction in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate or part of the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale shall extend only to the right, title and interest of the defendant in the property specified therein. (S. C. C. & R. C.)

**405.** The proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be ordered; and a written notification to the same shall be affixed in the Court-house of the District. And he who shall have ordered the sale, and further conspicuous spot in the town or village in which the attachment shall have taken place. When the property ordered to be sold consists of land or of any right or interest in land, a written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District when the Court which ordered the sale is subordinate to such Court. If the Court shall so direct, such notification shall also be published in the Official Gazette and in some local newspaper. (S. C. C. & R. C.)

**406.** Except in the case of articles of a perishable nature (which may be sold at once), no sale shall take place until after the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale. (S. C. C. & R. C.)

**407.** The usual process for attachment and sale, when the property to be attached consists of any movable property other than a debt, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper. (S. C. C. & R. C.)

**408.** If the property sold consist of movable property, the price of each lot shall be paid for at the time of sale, or as soon after as the Officer holding the sale shall direct, and in default of payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute. (S. C. C. & R. C.)

**409.** If the purchaser be the holder of the decree in execution of which the property is sold, the amount of his decree may be taken as payment in whole or in part, as the case may be, of the purchase money. (S. C. C. & R. C.)

**410.** No irregularity in the sale of movable property shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity at the hand of any other person may institute a suit against him for damages. (S. C. C. & R. C.)

**411.** If the property sold be immovable, the purchaser shall pay immediately after the sale a deposit of twenty-five per centum on

the amount of his purchase money to the Officer conducting the sale, and, in default of such deposit, the property shall forthwith be again put up for payment and sold. The full amount of purchase money shall be paid by the purchaser before sunset of the fifteenth day after the sale of the property, exclusive of such day, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day: Provided that if the purchaser be the holder of the decree, the amount of his decree may be taken in whole or in part, as the case may be, of the purchase money. (R. C.)

**412.** In default of payment within the period mentioned in the last preceding Section, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is ultimately completed be less than the price bid by such defaulting purchaser, the deficiency and all costs and expenses occasioned by such default shall be recoverable from him under the rules contained in this Chapter for the execution of a decree for money. (R. C.)

**413.** When the land sold in execution of a decree is a share of an undivided estate, if the lot shall have been knocked down to a stranger, any co-sharer other than the party liable for the amount of the decree, may claim to take the share sold at the sum at which the lot was knocked down: Provided that the claim be made before sunset on the day of sale and that the claimant fulfil all the conditions of the sale. (R. C.)

**414.** Every re-sale of immovable property in default of payment of the purchase money within the period allowed for such payment, shall be made after the issue of a fresh notification in the manner and for the period hereinbefore prescribed for the sale. (R. C.)

**415.** No sale of immovable property shall become absolute until it shall have been confirmed by the Court. (R. C.)

**416.** At any time within thirty days from the date of the sale of any immovable property, application may be made to the Court to set aside the sale on the ground of a material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity. (R. C.)

**417.** If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale. If such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. No suit shall lie to set aside or render void an order passed under this Section. (R. C.)

**418.** When a sale of immovable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest as the Court shall direct. Payment of the purchase money and of the interest (if any) allowed by the Court shall be enforced under the rules provided by this Chapter for the execution of a decree for money. (R. C.)

**419.** When a sale of immovable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who shall have been declared the purchaser of the property, to the effect that he has purchased the right, title and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title and interest. (R. C.)

**420.** The certificate shall state the name of the person who, at the time of sale, is declared to be the purchaser, and no suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall lie. (R. C.)

**421.** When the property sold consists of any movable property in the possession of the defendant, or to the immediate possession of which he is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser. (S. C. C. & R. C.)

**422.** When the property sold consists of any movable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser. (S. C. C. & R. C.)

**423.** When the property sold consists of any immovable property in the occupancy of the defendant or of some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery to be made by putting the purchaser

or any person whom he may appoint to receive delivery on his behalf, in possession of the property, and, if need be, by removing any person who may refuse to vacate the same. (R. C.)

**424.** When the property sold is immovable property in the occupancy of a tenant or no person entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the property, and proclaiming to the occupant by beat of drum or in such other mode as may be customary, at some convenient place, that the right, title and interest of the defendant have been transferred to the purchaser. (R. C.)

**425.** When the property sold consists of a debt not being a negotiable instrument or of a share in any Railway, Banking or other public Company or Corporation, the delivery thereof shall be made by a written order of the Court prohibiting the creditor from receiving the debt or any interest thereon, and the debtor from making payment thereof to any person except the purchaser, or prohibiting the person in whose name the share may be standing from making any transfer of the share to any person except the purchaser, or receiving payment of any dividend or interest thereon, and the Manager, Secretary or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser. (S. C. C. & R. C.)

**426.** When the property sold consists of a negotiable instrument of which actual seizure has been made, the same shall be delivered to the purchaser of such security. (S. C. C. & R. C.)

**427.** If the endorsement or conveyance of the party in whose name a negotiable instrument or a share in any Railway, Banking or other public Company or Corporation is standing, shall be required to transfer such instrument or share, the Judge may endorse the instrument or the certificate of the share or may execute such other document as may be necessary. The endorsement or execution shall be in the following form or to the like effect:—"A. B. by C. D., Judge of the Court of (or as the case may be); in a suit by E. F. against A. B." Until the transfer of such instrument or share, the Court may, by order, appoint some person to receive any interest or dividend due thereon, and to sign a receipt for the same; and any endorsement made or document executed or receipt signed as aforesaid shall be as valid and effectual for all purposes as if the same had been made or executed or signed by the party himself. (S. C. C. & R. C.)

**428.** If the purchaser of any immovable property sold in execution of a decree shall be resisted or obstructed by the defendant or any one on his behalf in obtaining possession of the property, the provisions of this Chapter relating to re-

assistance or obstruction to a party in whose favour a decree has been made in obtaining possession of the property, adjudged to him, shall be applicable. (R. C.)

And be further. If it shall appear that the resistance or obstruction by or obstruction to the delivery of possession was occasioned by any person other than the defendant, claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if, in the delivery of possession to the purchaser, any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession, as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper. The party against whom the order is passed shall be at liberty to bring a suit to establish his right to the property at any time within one year from the date of such order. (R. C.)

**430.** When property is sold in execution of a decree, the holder of the decree on whose application such property was first attached, whether during the pendency of the suit or in execution of the decree, shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of another decree whether of a prior or of a later date. (S. C. C. & R. C.)

**431.** If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who, prior to the order for such distribution, may have taken out execution of decrees against the same defendant and may not have obtained satisfaction thereof: Provided that when any property is sold subject to a mortgage, the mortgagee shall not be entitled in respect of such mortgage to share in any surplus arising from such sale. (S. C. C. & R. C.)

**432.** If it shall appear to the Court upon the application of the holder of a decree, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of the same Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made. (S. C. C. & R. C.)

Court may order proceeds of property attached under a decree obtained fraudulently, to be paid in satisfaction of another decree.

the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of the same Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made. (S. C. C. & R. C.)

#### OF ARREST IN EXECUTION OF DECREES FOR MONEY.

**433.** Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if he is possessed of any property, that he is willing to place at the disposal of the Court whatever property he possesses. (S. C. C. & R. C.)

**434.** The application shall contain a full account of all property of whatever description belonging to the applicant (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), whether it is in possession or in expectancy and whether held exclusively by himself or jointly with any other person, or by any other person in trust for him and of the place where such property is to be found, or shall state that, with the exceptions above mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints. (S. C. C. & R. C.)

**435.** When a person arrested under a warrant in execution of a decree for money shall, on being brought before the Court, apply for his discharge under Section 433, the Court shall examine the applicant in the presence of the holder of the decree or his Advocate, as to his then circumstances, and as to his future means of payment, and shall call upon the holder of the decree to show cause why he does not proceed against any property of which the defendant is possessed, and why the defendant should not be discharged. Should the holder of the decree fail to show such cause, the Court may direct the discharge of the defendant from custody. (S. C. C. & R. C.)

**436.** Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may, instead of ordering the immediate committal of the defendant to jail, leave him in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant depositing the fees of such Officer, which shall be at the same daily rate as the lowest rate charged in the same Court for serving process; or if the defendant furnish sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security. (S. C. C. & R. C.)



**437.** The discharge of the defendant under Section 435 shall not protect him from being arrested again and imprisoned if it be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred or removed any property, or had committed any other act of bad faith: nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed. (S. C. C. & R. C.)

#### OF THE EXECUTION OF DECREES BY IMPRISONMENT.

**438.** The imprisonment of the defendant in execution of a decree may be in the jail of the District in which the Court ordering the imprisonment is held, or, when such jail does not afford suitable accommodation, in any jail though not in such District where there may be suitable accommodation, which the Local Government may appoint for the confinement of persons or of any class of persons ordered to be imprisoned by the Courts of such District. (S. C. C. & R. C.)

**439.** When the defendant is committed to jail in execution of a decree, the Court shall fix whatever monthly allowance it shall consider sufficient with reference to the class of persons to which he belongs, for his subsistence, but (except as provided in the next succeeding Section) not exceeding four annas per day, which sum shall be supplied by the party on whose application the decree shall have been executed, to the proper Officer of the Court or of the jail in which the defendant may be confined, by monthly payments in advance before the first day of each month. The first payment shall be made for such portion of the current month as may remain unexpired before the defendant is committed to jail. (S. C. C. & R. C.)

**440.** The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown. (S. C. C. & R. C.)

**441.** Sums disbursed by the holder of a decree for the subsistence of the defendant in jail shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the defendant's property under the rules contained in this Chapter for the execution of a decree for money: Provided that the defendant shall not be detained in jail or arrested on account of any sum so disbursed. (S. C. C. & R. C.)

**442.** The defendant shall be discharged from jail at any time, by order of the Court, on the decree being fully satisfied, or at the request of the person on whose application he shall have been imprisoned, or on such person omitting to pay the allowance as hereinbefore directed. (S. C. C. & R. C.)

**443.** No person shall be imprisoned in execution of a decree for a longer period than two years; or for a longer period than six months if the decree be for the payment of a sum of money not exceeding five hundred rupees; or for a longer period than three months if the decree be for the payment of a sum of money not exceeding fifty rupees. (S. C. C. & R. C.)

**444.** Any person imprisoned in execution of a decree may at any time apply to the Court which ordered his imprisonment for his discharge on the ground of his inability to pay the amount of the decree in execution of which he is imprisoned. (S. C. C. & R. C.)

**445.** The application shall contain a full account of all property of whatever nature belonging to the applicant (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), whether such property is in possession or in expectancy, and whether it is held exclusively by himself or jointly with any other person, or by any other person in trust for him, and of the places where such property is to be found. The application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints. (S. C. C. & R. C.)

**446.** On such application being made, the Court shall cause the holder of the decree to be furnished with a copy of the account of the property of the defendant, and shall fix a reasonable period within which the holder of the decree may cause such property or any part thereof to be attached and sold, or may furnish proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property or his right or interest in any property or fraudulently transferred or removed property, or committed any other act of bad faith. (S. C. C. & R. C.)

**447.** If within such period the holder of the decree shall fail to furnish such proof, the Court shall order the defendant to be discharged from jail. (S. C. C. & R. C.)

**448.** If the holder of the decree shall, within the time specified or at any subsequent period, prove to the satisfaction of the Court that the defendant has been guilty of any of the acts mentioned

in Section 446, the Court shall, at the instance of the holder of the decree, either retain the defendant in confinement, or commit him to jail, as the case may be, unless he shall have already been in confinement two years on account of the decree.

And he may be further dealt with criminally. The Court may, if it think proper, send the defendant to the Magistrate to be dealt with according to law. (S. C. C. & R. C.)

**449.** A defendant once discharged from jail shall not again be imprisoned on account of the same decree, except under the operation of Section 437 or the last preceding Section; but his property shall continue liable to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum of money not exceeding twenty Rupees. (S. C. C. & R. C.)

**450.** If the decree shall be for a sum of money less than one hundred Rupees, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under such decree. (S. C. C. & R. C.)

**451.** Questions regarding the amount of any mesne profits which by the terms of the decree shall have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject-matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree, and any other questions arising between the parties to the suit in which the decree was passed and relating to the execution of the decree, shall be determined by order of the Court executing the decree, and not by a separate suit. (S. C. C. & R. C.)

#### OF PAYMENT OF THE AMOUNT OF DECREES FOR MONEY BY INSTALMENTS.

**452.** The Court may order that the amount of a decree for money be paid by instalments on such terms as to the payment of interest, the attachment of the property of the defendant, or the taking of security from him or otherwise as it may deem proper, notwithstanding that the decree make no provision for the payment by instalments of the amount decreed. (S. C. C. & R. C.)

#### OF SERVICE OF PROCESS IN MILITARY CANTONMENTS.

**453.** If, in the execution of a decree, process is to be executed within the limits of a Cantonment, Garrison, Military Station or Military Bazar, the Officer entrusted with the execution of such process shall carry the same to the Commanding Officer, or in his absence to the senior Officer actually present in the Cantonment, Garrison, Station or Military Bazar; and

the Commanding Officer or such senior Officer, upon such process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command, and delivered, according to the exigency of the warrant, to the Officer charged with the execution thereof. (S. C. C. & R. C.)

#### OF EXECUTION OF A DECREE BEYOND THE LOCAL LIMITS OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

**454.** A decree of any Court in British India or established by the authority of the Governor-General of India in Council in the Territories of any foreign Prince or State in India which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed in the manner hereinafter provided, within the jurisdiction of any other such Court: Provided that no Proviso as to Court of Small Causes shall have power to execute the decree of any other Court except a decree for money of an amount exclusive of costs not exceeding the pecuniary jurisdiction of the Court of Small Causes to which the application for the execution of the decree of another Court is made. (S. C. C. & R. C.)

**455.** The holder of a decree may apply to the Court whose duty it is to execute the same to send a copy of the decree, together with a certificate setting forth that satisfaction of the decree has not been obtained by execution within the jurisdiction of such Court, or, where the decree has been executed in part, the extent to which satisfaction has been obtained and what part of the decree remains unexecuted, and a copy of any order for execution of the decree that shall have been passed, to the Court by which the holder of the decree wishes it to be executed. (S. C. C. & R. C.)

**456.** The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared and shall send the same by post to the Court by which the holder of the decree wishes the decree to be executed, if such Court be within the same District, or otherwise to the principal Civil Court of original jurisdiction in the District in which the holder of the decree wishes that execution may take place. Such copies and certificate shall be signed by the Judge or Registrar or Clerk of the Court and shall be sealed with the seal of the Court. (S. C. C. & R. C.)

**457.** The Court to which such copies and certificate are sent shall cause the same to be filed, without any proof of the decree or order for execution, or of the copies thereof or of the seal or jurisdiction of any Court, or of the signature of any Judge or Officer, unless the Court shall, under any peculiar circumstances to be specified in an order, require such proof. (S. C. C. & R. C.)

**458.** The copy of the decree and of any order for execution, when filed in the Court to which such copy shall have been sent for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto to which such principal Civil Court may entrust the execution of the same. (S. C. C. & R. C.)

**459.** When the holder of a decree which shall have been sent under the foregoing provisions for execution by a Court other than the Court which passed the decree, shall apply for execution of the decree to the Court to which it shall have been so sent, such Court, or any subordinate Court to which the execution of the decree may be entrusted, shall proceed to execute the decree according to the provisions of this Chapter so far as the same can be made applicable, or to its own rules in the like cases when such rules exist and have the force of law: Provided that such Court shall have no power to enquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was passed had no jurisdiction to pass it. (S. C. C. & R. C.)

**460.** If the Court to which the decree is transmitted for execution be a High Court, the decree shall be executed by such Court in the same manner as if the decree had been passed by such Court in the exercise of its ordinary original Civil jurisdiction: Provided that no decree shall be transmitted for execution by a High Court if the decree was made by a Court of Small Causes, or in a case cognizable by a Court of Small Causes.

**461.** The Court to which the holder of the decree shall so apply, shall have the same powers in executing the decree as the Court by which it was passed would have had if the decree had been capable of being executed within the jurisdiction of the said Court. (S. C. C. & R. C.)

**462.** The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of the decree shall be punishable by such Court in the same manner as if the decree had been made by such Court. (S. C. C. & R. C.)

**463.** The Court to which such application is made or referred as aforesaid, may, upon sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by

which the decree was passed, or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or execution which such Court of first instance or appellate Court might have made if execution had been issued by such Court of first instance or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application. (S. C. C. & R. C.)

**464.** Before passing an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from, or impose such conditions upon, the defendant, as it may deem reasonable. (S. C. C. & R. C.)

**465.** Any order of the Court in which the decree was passed or of such Court of appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of any process issued by such last mentioned Court. (S. C. C. & R. C.)

**466.** No discharge of a defendant under the provisions of Section 463, shall prevent such defendant from being retaken in execution of the decree. (S. C. C. & R. C.)

**467.** The orders of a Court for executing the decree of another Court shall be subject to the same rules in respect of appeal, as if the decree had been originally passed by the Court making such order.

#### OF THE ENFORCEMENT OF REGISTERED BONDS.

**468.** A bond which shall have been registered under the provisions of Act XVI of 1864 (to provide for the Registration of Assurances) may be enforced without a suit: Provided that the parties to such bond shall, at the time of the registration thereof, have signified their assent to its being so enforced, and that such assent shall have been recorded at the foot of the memorandum of registration on such bond at the time it was registered. (S. C. C.)

**469.** No bond shall be enforced under the provisions of the last preceding Section unless application for its enforcement be made within twelve months from the date on which the whole amount secured thereby became payable: Provided that nothing herein contained shall be construed to

prevent the obligee of a bond payable by instalments from suing on the bond before all the instalments shall have become due. (S. C. C.)

**470.** Any person who is desirous of enforcing a bond under Section 468 may apply to any Court which would have had jurisdiction to try a suit on such bond for the enforcement of the same. (S. C. C.)

*Court to which application may be made for enforcing bonds.*

**471.** Such application shall be treated as an application for the execution of a decree, and the foregoing provisions of this Chapter relating to execution of decrees shall, except as hereinafter provided, apply in such case so far as shall be practicable. (S. C. C.)

*Application to be treated as for execution of a decree.*

**472.** The Court to which such application is made shall cause a notice to be served on the person against whom the enforcement is applied for, calling on him to show cause within a time to be specified in the notice, why execution for the amount stated in the application should not be issued against him. (S. C. C.)

*Procedure of Court on receipt of application.*

**473.** If the person making the application shall satisfy the Court that the party against whom the claim is made is about to leave the jurisdiction of the Court, or to dispose of or remove his property from the jurisdiction of the Court in order to evade payment of the money claimed to be due from him, the Court may issue process of attachment against the person or property of such party. (S. C. C.)

*Attachment may issue against debtor about to quit jurisdiction, or to move property therefrom.*

**474.** Whenever such attachment is applied for, the provisions contained in Chapter IV relating to arrest and attachment before judgment shall be applicable. (S. C. C.)

*Chapter IV applicable to attachments applied for.*

**475.** If it appear to the Court that the arrest of the person against whom the claim is made or the attachment of his property was applied for on insufficient grounds, or if the application for enforcing the bond is disallowed and it appear to the Court that there was no ground for making the application, the Court may, on the application of the party against whom the claim is made, award in its order against the party making the application such sum, not exceeding one thousand rupees, as it may deem a reasonable compensation to the party against whom the claim is made for his arrest or the attachment of his property: Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. (S. C. C.)

*Compensation to person against whom claim is made if arrest or attachment of property be applied for on insufficient grounds.*

*Limit to compensation.*

**476.** An award of compensation made under the last preceding Section shall bar any suit for damages in respect of such arrest or attachment, and may be enforced under the rules contained in this Chapter for the execution of decrees, and all the provisions of this Code shall be applicable to the proceedings in such execution. (S. C. C.)

*Award of compensation to bar suit for damages.*

**477.** If the person against whom execution is applied for shall attend within the time mentioned in the notice, and show cause why execution should not be issued against him, the Court shall enquire into his objection, and pass such order as it shall think proper. (S. C. C.)

*Procedure when person against whom execution is claimed appears and shows cause against issue of execution.*

**478.** No person shall be allowed to plead in bar of execution any plea other than that he was not a party to the registration of the bond, or that the Court has not jurisdiction, or that the application is barred in consequence of its not having been made within the time allowed, or that the bond has been paid or has been satisfied in some other way, or is for any reason no longer in force, or that the amount claimed exceeds that which is remaining due, whether for principal or interest, or, when application is made against a person as the representative of a deceased person, that he is not such representative, or that he has never received any assets from the deceased, or, if the representative have received assets, that he has paid them away or that they are not sufficient to discharge the debt. (S. C. C.)

*Pleas in bar of execution.*

**479.** The Court to which application is made for the enforcement of a bond under Section 468 may, for any sufficient reason, instead of granting such application, order that a suit shall be brought on such bond. (S. C. C.)

*Court may direct institution of suit, instead of enforcing bond under Section 468.*

**480.** No suit between the same parties, or persons claiming under them respectively, shall be entertained on any bond the enforcement of which shall have been refused by the Court on an application for enforcement made under Section 468 otherwise than as barred by lapse of time, unless the Court shall have refused the application by reason of its not having been preferred within the period prescribed by Section 469, or shall have directed a suit to be brought under the last preceding Section. (S. C. C.)

*Effect of Court refusing to enforce bond under Section 468 or 469.*

**481.** Nothing in the foregoing Sections shall be held to prevent the obligee of a bond, registered as aforesaid, from instituting a suit to recover the amount subject to the law of limitations, instead of applying for the enforcement of the bond under the foregoing provisions. (S. C. C.)

*Foregoing provisions not to bar suit by obligee.*

**482.** The provisions of Chapter IV relating to the summoning, attendance, and examination of witnesses, and to the remuneration of and penalties to be imposed upon witnesses, shall apply to wit-

*Attendance, examination and punishment of witnesses required to give evidence.*



nences required to give evidence or to produce documents under the provisions of this Chapter. Any penalty to which a witness may be liable under this Section shall be imposed by the Court from which the process was issued. (S. C. C. & R. C.)

## CHAPTER VI.

### OF PAUPER SUITS.

**483.** A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules. (S. C. C.)

**484.** No suit shall be brought *in formâ pauperis* to recover money on account of damages for loss of caste, slander, abusive language or assault. (S. C. C.)

**485.** The application for permission to institute a suit *in formâ pauperis* shall be by petition written on stamp paper of the value of one Rupee. (S. C. C.)

**486.** The petition shall contain the particulars required by Section 53 in regard to plaints in suits, and shall have annexed to it a Schedule of any movable or immovable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner prescribed by this Code for the subscription and verification of plaints. (S. C. C.)

**487.** The petition shall be presented to the Court by the petitioner in person; but if he satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person. (S. C. C.)

**488.** If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject it. (S. C. C.)

**489.** If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or his agent when the petitioner is allowed to appear by agent, regarding the merits of the claim and the property of the petitioner.

If presented by agent, Court may order petitioner to be examined by Commission. When the petition is presented by an agent, the Court may, if it think proper, order that the petitioner be examined by a Commission in the manner in

which the examination of an absent witness may be taken under the provisions of this Code. (S. C. C.)

**490.** It it appear to the Court upon such examination that the defendant, or the subject-matter of the suit, is not within the jurisdiction of the Court, or that the right of action is barred by lapse of time, or that the allegations of the petitioner do not constitute a ground of action, or, if none of the foregoing objections exist, that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamp duty prescribed by any law for the plaint, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue *in formâ pauperis*. (S. C. C.)

**491.** If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day, of which at least ten days' previous notice shall be given to the opposite party, for receiving such evidence as the petitioner may adduce in proof of his being a pauper and for hearing any evidence which the opposite party may bring forward in disproof of his pauperism. (S. C. C.)

**492.** On the day appointed for the hearing or as soon after as may be convenient, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party, and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue *in formâ pauperis*. (S. C. C.)

**493.** Either party may, on application to the Court made in sufficient time before the day fixed for the hearing of the case, obtain a summons to any person to attend either to give evidence or to produce a document. (S. C. C.)

**494.** Previously to passing a final order in the case, the Court may, if it think fit, institute a local enquiry in the manner laid down in Chapter IV regarding the property of the petitioner or regarding the amount or value of any property claimed. (S. C. C.)

**495.** If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as a suit instituted under Chapter IV, except that the plaintiff shall not be liable to any stamp duty in respect of any petition, appointment of an Advocate, or other proceeding connected with the suit. (S. C. C.)

**496.** On the decision of the suit, the Court shall calculate the amount of stamp duty which would have been paid by the plaintiff if he had not been permitted to sue *in formâ pauperis* and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable under this Code. (S. C. C.)

**497.** The refusal to allow the petitioner to sue *in formâ pauperis* shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the ordinary manner in respect of such cause of action, unless precluded by the law of limitations. (S. C. C.)

**498.** The provisions of Chapter IV relating to the summoning, attendance, examination & punishment of witnesses, and to the remuneration of and penalties to be imposed upon witnesses, shall apply to witnesses and other persons required to give evidence or to produce documents under the provisions of this Chapter. (S. C. C.)

## CHAPTER VII.

### REFERENCE TO ARBITRATION.

**499.** If the parties to a suit desire that any matter in difference between them in the suit shall be referred to arbitration, they may, at any time during the pendency of the suit, apply to the Court for an order of reference. (S. C. C. & R. C.)

**500.** The application shall be in writing, and shall bear the stamp prescribed for petitions to the Court where a stamp is required for petitions. (S. C. C. & R. C.)

**501.** The arbitrator shall be nominated by the parties in such manner as may be agreed upon between them. (S. C. C. & R. C.)

**502.** If the parties cannot agree with respect to the nomination of the arbitrator, or if the person whom they nominate shall refuse to accept the arbitration and the parties are desirous that the nomination shall be made by the Court, the Court shall nominate the arbitrator. (S. C. C. & R. C.)

**503.** The Court shall, by an order, refer to the arbitrator the matter in difference which he may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and specify such time in the order. (S. C. C. & R. C.)

**504.** If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or if the number of arbitrators be uneven, by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed between the parties; or, if they cannot agree, as the Court may determine. If the number of arbitrators is uneven, in the absence of a declaration in the reference that all the arbitrators shall concur in the award, the decision shall be with the majority. (S. C. C. & R. C.)

**505.** If the arbitrator, or where there are more arbitrators than one, any of the arbitrators, or the umpire, shall die, or refuse, or neglect, or become incapable to act, the Court, if the parties so desire, may appoint a new arbitrator or umpire in the place of the person so dying, or refusing or neglecting or becoming incapable to act. (S. C. C. & R. C.)

**506.** Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and fail to do so, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. (S. C. C. & R. C.)

**507.** An arbitrator or umpire appointed under either of the last two preceding Sections shall have the like powers to act in the reference, as if his name had been inserted in the order of reference. (S. C. C. & R. C.)

**508.** The Court shall issue the same processes to the parties and witnesses whom the arbitrators or umpire may desire to examine, as the Court is authorized to issue in suits tried before it. Persons not attending in accordance with such process, or making any other default, or refusing to give their evidence, or being guilty of any contempt to the arbitrator or umpire during the investigation of the matters referred, shall be subject to the like disadvantages, penalties and punishments by order of the Court on the representation of the arbitrator or umpire, as they would incur for the like offences in suits tried before the Court. (S. C. C. & R. C.)

**509.** If the arbitrator shall not complete the award within the period specified in the order, from the want of the necessary evidence or information or from any other cause, the Court may grant a further time and may from time to time enlarge the period for the delivery of the award, if it shall think proper. (S. C. C. & R. C.)

**510.** When an umpire shall have been appointed, it shall be lawful for him to enter on the reference in the place of the arbitrators, if they shall have allowed their extended time to expire without making an award, or, when they shall have delivered to the Court or to the umpire a notice in writing, stating that they cannot agree or that they are equally divided. (S. C. C. & R. C.)

**511.** When an award in a suit shall have been made, the person or persons who made it shall sign and file it in Court together with any documents which may have been filed; and notice of the filing of the award shall be given to the parties. (S. C. C. & R. C.)

**512.** Upon any reference by an order of Court, and if it is not provided to the contrary, the arbitrator or umpire may state his award as to the whole or any part thereof in the form of a special case for the opinion of the Court. (S. C. C. & R. C.)

**513.** The Court may, on the application of either of the parties, modify or correct an award where it appears that a part of the award is upon a matter not referred to arbitration, provided such part can be separated from the other part and does not affect the decision on the matter referred, or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. (S. C. C. & R. C.)

**514.** The Court may also, on the application of either of the parties or of the arbitrator or umpire, make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them. (S. C. C. & R. C.)

**515.** In any of the following cases the Court shall have power to remit the award or any matter referred to arbitration to the reconsideration of the same arbitrator or umpire, upon such terms as it may think proper; that is to say:—

(1). If the award has left undetermined any of the matters referred to arbitration, or if it determine any matter not referred to arbitration.

(2). If the award is so indefinite as to be incapable of execution.

(3). If an objection to the legality of the award is apparent upon the face of it. (S. C. C. & R. C.)

**516.** No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrator or umpire, or of either party having been guilty of fraudulent

concealment of any matter which he ought to have disclosed, or of wilfully-misleading or deceiving the arbitrator or umpire, or of the award having been made after the issue of an order by the Court superseding the arbitration and recalling the suit, or of the award not having been made within the period or further period allowed by the Court: Provided that no award shall be set aside on the last mentioned ground, unless it be proved to the satisfaction of the Court that the delay in completing the award arose from the corruption or misconduct of the arbitrator or umpire. (S. C. C. & R. C.)

**517.** The application to set aside an award shall be made within fifteen days after notice of the filing of the award shall have been given to the parties as provided in Section 511, and shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions. (S. C. C. & R. C.)

**518.** If the Court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to give judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment so given a decree shall follow and shall be enforced in the manner provided in this Code for the execution of decrees. (S. C. C. & R. C.)

**519.** When any persons shall by an instrument in writing agree that any difference between them or any of them shall be referred to the arbitration of any person named in the agreement or to be appointed by any Court having jurisdiction in the matter to which the agreement relates, application may be made by the parties thereto or any of them, that the agreement be filed in such Court.

**520.** The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the others or other of them as defendants or defendant, if the application have been presented by all the parties, or, if otherwise, between the applicant as plaintiff and the other parties as defendants.

**521.** On such application being made, the Court shall direct notice thereof to be given to any of the parties to the agreement other than the applicants, requiring such parties to show cause, within the time specified in the notice, why the agreement should not be filed.

**522.** If no sufficient cause be shewn against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon.

**523.** The foregoing provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court under the last preceding Section, and to the award of arbitration and to the enforcement of the decree based thereupon.

**524.** When any matter has been referred to arbitration without the intervention of a Court of Justice and an award has been made, any person interested in the award may, within six months from the date of the award, apply to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The application shall be

written on paper bearing the stamp prescribed for petitions to the Court where a stamp is required for petitions, and shall

be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. The Court shall direct notice to be

given to the parties to the arbitration other than the applicant, requiring them to show cause, within a time specified, why the award should not be filed.

**525.** If no sufficient cause be shown against the award, the award shall be filed and may be enforced as a decree upon an award made under the provisions of this Chapter.

#### CHAPTER VIII.

##### OF PROCEEDINGS ON AGREEMENT OF PARTIES.

**526.** Parties claiming to be interested in the decision of any question of fact or law, may enter into an agreement which shall be subject to the same stamp duty as prescribed for plaints in suits, that such question be stated in the form of a special case for the opinion of the Court; or that upon the finding of the Court in the affirmative or negative of such question a sum of money fixed by the parties or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, movable or immovable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform or refrain from doing or performing some particular act specified in the agreement. (S. C. C.)

**527.** If the agreement is for the delivery of any property or for the doing or performing or the refraining from doing or performing any

particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement. (S. C. C.)

**528.** The agreement may be filed in any Court having jurisdiction in the matter to which it relates, and, when so filed, shall be numbered and registered as a suit between one or more of the parties interested or claiming to be interested as plaintiff or plaintiffs, and the other or others of them as defendant or defendants; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented. (S. C. C.)

**529.** After the agreement shall have been filed, the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein. (S. C. C.)

**530.** The case shall be set down for hearing as a suit instituted under Chapter IV, the provisions of which shall apply to such suit so far as the same are applicable. If the Court shall be satisfied, after an examination of the parties or taking such evidence as it may deem proper, that the agreement was duly executed by them and that they have a *bond fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same and deliver judgment thereon, and upon the judgment so given a decree shall follow, and shall be enforced in the manner provided in this Code for the execution of decrees. (S. C. C.)

#### CHAPTER IX.

##### OF REGULAR APPEALS.

**531.** Unless when otherwise expressly provided in this Code or by any other law, a regular appeal shall lie from all decrees, except when expressly prohibited. lie from the decrees or from any part of the decrees, including the costs, of the Courts exercising original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. Provided that no appeal shall be admitted in respect of costs alone, unless upon the face of the decree or order of the Court below it shall appear that in granting or refusing the costs the Court proceeded upon a mistake or misapprehension. A regular appeal shall also lie from orders rejecting or returning plaints under Section 58 Clause 4 or 5, or Section 59 Clause 4, or Section 60 Clause 1, or from a decree made in conformity with an award under Section 518. No appeal shall lie from a decision or order passed in any suit under the fifteenth Section of Act XIV of 1859 (*to provide for the limitation of suits*).

**532.** If the appeal lie to the High Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court.



**533.** When the appeal is heard by two Judges, if there is a difference of opinion upon the evidence, and one Judge concurs as to the facts with the Court which passed the decree appealed against, the appeal shall be determined according to the opinion of such Judge. If the two Judges differ in opinion upon a point of law, they shall state the point and the case shall be re-argued upon that point before the same two Judges if practicable, and one or more of the other Judges, and shall be determined according to the opinion of the majority of the Judges before whom the point is argued, including the Judges who first heard the appeal.

**534.** When the appeal is heard by more Judges than two, the decision shall be according to the opinion of the majority. If the number of Judges who hear the appeal be even, and the opinions of the Judges be equally divided, the decision shall be according to the opinion of the Judge or Judges with whom the Senior Judge concurs.

**535.** If the appeal lie to a Court which consists of a single Judge, the appeal shall be heard and determined by such Judge.

#### HOW REGULAR APPEALS ARE TO BE PREFERRED.

**536.** The appeal shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant show cause to the satisfaction of the Appellate Court for not having presented the appeal within such limited period; that is to say, within thirty days if the appeal be to a District Court, or to the High Court from a decree passed in a suit by that Court in the exercise of its ordinary original Civil jurisdiction, and within ninety days if the appeal be to the High Court in any other suit. The days shall be reckoned from and exclusive of the date of the decree against which the appeal is made, and also exclusive of such time as may be requisite for obtaining copies of the decree and judgment.

**537.** The memorandum of appeal shall set forth concisely and under distinct heads, the grounds of objection to the decree appealed against, without any argument or narrative, and such grounds shall be numbered consecutively.

**538.** The appellant shall not, without the leave of the Court, urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant, and shall of its own motion take cognizance of defences founded on lapse of time, breach of the stamp laws, or want of jurisdiction, though such defences have not been made either in appeal or in the Court of first instance.

**539.** The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against:—

#### Memorandum of Appeal.

(Name, &c., as in Register.) Plaintiff—Appellant.

(Name, &c., as in Register.) Defendant—Respondent.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the High Court at [or District Court at] as the case may be], against the decree of [ ] in the above suit, dated the [ ] day of [ ], for the following reasons, namely [here state the grounds of objection.]

**540.** If the appeal be to the High Court, but not from a decree made by that Court in the exercise of its ordinary or extraordinary original Civil jurisdiction, the memorandum of appeal, instead of stating the grounds of objection to the decree appealed against, may state only the dissatisfaction of the party preferring the appeal with the decree and his intention to file his grounds of objection subsequently. In such case the grounds of objection shall be filed within one month from the date of the receipt in the High Court of the record of the suit in which the appeal is made, to be certified by an Officer of the High Court at the time of the receipt of the record, or within such shorter period as the High Court shall appoint by a general rule published in the Official Gazette.

**541.** The High Court may, for sufficient reason, extend the time allowed in the last preceding Section for filing the grounds of objection.

**542.** The grounds of objection, when filed separately from the memorandum of appeal, shall be written on a stamp paper of the value of four Rupees. If the grounds of objection cannot be contained in a single sheet of stamp paper, every additional sheet used shall bear a stamp of one Rupee.

**543.** The provisions of Sections 537, 538 and 539 shall be applicable to the grounds of objection when filed separately from the memorandum of appeal.

**544.** If the memorandum of appeal be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be disallowed.

**545.** If the grounds of objection, when allowed to be filed separately, be not filed within the prescribed period or within the further time to which such period may have been extended by the Court, the appeal shall be struck off the file.

**546.** If the memorandum of appeal or the grounds of objection be not drawn up in the manner hereinbefore prescribed, or do not bear the proper stamp, such memorandum or grounds may be rejected or returned to the appellant for the purpose of being amended within a time to be fixed by the Court.

**547.** If there be more plaintiffs or more defendants than one in a suit, and the decree appealed against proceed on any ground common to all the plaintiffs or to all the defendants, any one of the plaintiffs or of the defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favour of all the plaintiffs or defendants as the case may be.

**548.** If it appear to the Court at the hearing of an appeal, that any person who was a party to the suit in the Court against whose decree the appeal is made, and who has not been made a party to the appeal, may be affected by the result of the appeal, the Court may adjourn the hearing of the appeal to a future day to be fixed by the Court, and direct that such person shall be made a respondent in the appeal. In such case the Court shall issue a notice to such person in the manner hereinafter provided for the service of a notice on a respondent to appear and answer the appeal.

#### OF STAYING AND EXECUTING DECREES UNDER APPEAL.

**549.** Execution of a decree shall not be stayed by reason only of an appeal having been preferred against the decree; but the Appellate Court may, for sufficient cause shown, order the execution to be stayed.

**550.** If an application be made for the execution of a decree which is open to appeal, before the time allowed for appeal has expired, and the Court which passed the decree has not received intimation of an appeal having been preferred therefrom, the Court may, if sufficient cause be shown, stay the execution. Before making an order to stay execution, the Court shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

**551.** If an order is made for the execution of a decree against which an appeal has been preferred, the Court which passed the decree may require security to be given for the restitution of any property which shall be taken in execution of the decree or of the value of such property and for the due performance of the decree or order of the Appellate Court, or the Appellate Court may direct the Court which passed the decree to take such security.

**552.** The Appellate Court may direct that execution of a decree against which an appeal has been preferred, shall be stayed on such terms as to the taking of security as it may think proper.

**553.** No such security as is mentioned in the last three preceding Sections shall be required from the Government or from an Officer of the Government as such Officer.

#### OF PROCEDURE IN APPEAL FROM DECREES.

**554.** When a memorandum of appeal is presented within the time allowed, the Appellate Court or the proper Officer of that Court, if the memorandum be duly stamped and in the prescribed form, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose. Such book shall be called the Register of Appeals and shall be in the form contained in the Schedule E hereunto annexed.

**555.** The Appellate Court may, at its discretion, demand security for costs from the appellant before the respondent is called upon to appear and answer: Provided that the Court shall demand such security in all cases in which the appellant is residing out of British India, and is not possessed of any sufficient immovable property within British India independent of the property to which the appeal relates. If such security be not furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

**556.** When the memorandum of appeal has been registered or when the grounds of objection are filed, the Appellate Court shall send notice of the appeal to the Court against whose decree the appeal is made. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Court to which such notice is sent shall, upon the receipt thereof, transmit with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court.

**557.** Either party may make an application in writing to the Court against whose decree the appeal is made, specifying any papers of which he requires copies to be made and deposited in such Court, and copies of such papers shall be prepared at the expense of the applicant, and shall be deposited accordingly.

Either party may have copies of exhibits made and deposited in Court whose decree is appealed against.

**558.** A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear and answer the appeal on such day.

Day for hearing appeal.

**559.** Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Court against whose decree the appeal is made, and shall be served on the respondent in the manner provided in Chapter IV for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The Appellate Court may itself cause the notice to be served on the respondent under the rules above-mentioned, instead of sending the notice to the Court against whose decree the appeal is made, whenever it shall appear convenient to do so.

Publication and service of notice of the day fixed for hearing appeal.

Appellate Court may itself cause notice to be served.

**560.** The notice to the respondent shall declare that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the appeal will be heard *ex-parte*. Provided that, if the respondent has appointed an Advocate to appear in his behalf in the Appellate Court, the service of the notice on such Advocate shall be sufficient.

Contents of notice.

Service of notice on Advocate.

**561.** If on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not attend, the appeal shall be dismissed for default. If the appellant shall attend and the respondent shall not attend, the appeal shall be heard *ex-parte* in his absence.

Dismissal of appeal for appellant's default.

Hearing appeal *ex-parte*.

**562.** If on the day fixed for hearing the appeal it shall be found that the notice to the respondent has not been served in consequence of the failure of the appellant to deposit, within the time allowed, the sum required to defray the cost of issuing the notice, the Court may order that the

Dismissal of appeal where notice has not been served in consequence of appellant's failure to deposit cost of notice.

appeal be dismissed: Provided that no such order shall be passed, although the notice shall not have been served upon the respondent, if on the day fixed for hearing the appeal the respondent shall appear in person or by an Advocate, or by a duly authorized agent.

Proviso.

**563.** If an appeal be dismissed for default the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from attending when the appeal was called on for hearing, the Court may re-admit the appeal on such terms as to costs or otherwise as to the Court may seem just.

Re-admission of appeal dismissed for default.

**564.** The respondent, though he may not have appealed against any part of the decree, may, upon the hearing, take any objection to the decree, provided he shall give seven days' notice in writing of such objection. Such writing shall be in the form of a memorandum, and shall be on the stamp paper prescribed for petitions to the Court, and the provisions of Sections 537, 538 and 539, so far as they relate to the form and contents of the memorandum of appeal, shall be applicable to such memorandum.

Upon the hearing, respondent may object to decree as if he had preferred a separate appeal.

Previous notice in writing of objections.

**565.** The Appellate Court, after hearing the parties or their Advocates and referring to any part of the proceedings, whether held in appeal or in the Court against whose decree the appeal is made, to which a reference may be considered necessary, shall pronounce judgment in open Court, either at once or on some future day, of which notice shall be given to the parties or their Advocates.

Judgment when and where to be pronounced.

**566.** The judgment shall be written in the English language; but if English shall not be the vernacular language of the Judge, and the Judge shall not be able to write an intelligible judgment in English, the judgment shall be written in the vernacular language of the Judge.

In what language to be written.

**567.** When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall, if any party so require, be translated into such language, and the translation shall be signed by the Judge or Judges.

When to be translated.

**568.** The judgment of the Appellate Court shall contain the points for determination, the decision thereupon, and the reasons for the decision: and shall at the time that it is pronounced be dated and signed by the Judge or by the Judges concurring therein.

Contents of judgment.

**569.** When the appeal is heard by more Judges than one, any Judge dissenting from the judgment of the Court shall state in writing the decision or order which he thinks should be passed on the appeal, and he may state his reasons for the same.

**570.** The judgment may be for confirming or reversing or modifying the decree of the Court against which the appeal is made, or, if the parties to the appeal agree as to the form which the decree in appeal shall take, or as to the order which shall be passed in appeal, the Appellate Court may pass a decree or order accordingly: Provided that no portion of the stamp duty paid on the memorandum of appeal shall be refunded by reason of an adjustment or compromise between the parties to the appeal.

**571.** No decree shall be reversed or modified, nor shall any case be remanded in appeal, on account of any error, defect or irregularity, whether in the decision or in any order passed in the suit, or otherwise, not affecting the merits of the case or the jurisdiction of the Court.

**572.** If the Court against whose decree the appeal is made shall, without going into the merits, dispose of the suit upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties; and the decree upon such preliminary point shall be reversed in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree or order in appeal to the Court against whose decree the appeal is made, with directions to re-admit the suit under its original number in the Register, and to proceed to investigate the suit on its merits, and pass a decree thereon.

**573.** It shall not be competent to the Appellate Court to remand a case for a second decision, except as provided in the last preceding Section.

**574.** When the evidence upon the record is sufficient to enable the Appellate Court to pronounce judgment, the Appellate Court shall finally determine the case notwithstanding that the judgment of the Court against whose decree the appeal is made has proceeded wholly upon some ground other than that on which the Appellate Court proceeds.

**575.** If the Court against whose decree the appeal is made shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence

upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame issues for trial, and may refer the same for trial to the Court against whose decree the appeal is made, and such Court shall proceed to try such issue, and shall return to the Appellate Court its finding thereon together with the evidence.

**576.** Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of objections to the finding. Such memorandum shall be on the stamp paper prescribed for petitions to the Court, and shall set forth concisely and under distinct heads and without argument or narrative the grounds of objection to the finding, which grounds shall be numbered consecutively. After the expiration of the period fixed for filing such memorandum, the Appellate Court shall proceed to determine the appeal.

**577.** The parties to an appeal shall not produce additional evidence, whether oral or documentary, in the Appellate Court; but if it appear that the Court against whose decree the appeal is made refused to admit evidence which ought to have been admitted, or if the Appellate Court require any document to be produced or any witness to be examined to enable it to pronounce judgment or for any other substantial cause, the Appellate Court may allow such document to be received, or such witness to be examined, whether such document or witness shall or shall not have been previously produced or examined: Provided that, whenever additional evidence is admitted by an Appellate Court, the reason for the admission shall be recorded on the proceedings of the Court.

**578.** Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence, or the Appellate Court may require the Court against whose decree the appeal is made, or any other Court, or may empower any person, to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such additional evidence shall be taken.

**579.** In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the points to which the evidence is to be confined, and record the same on its proceedings.

**580.** The decree of the Appellate Court shall bear date the day on which the judgment was pronounced. The decree shall contain the number of the appeal, and the memorandum of appeal, including the names and description of the appellant and respondent, and shall specify



clearly the relief granted or other determination of the appeal. The decree shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the suit are to be paid. The decree shall be signed by the Judge or Judges who passed it, and shall be sealed with the seal of the Court.

**581.** Where there are more Judges than one, if there be a difference of opinion among them, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree.

*Judge dissenting from judgment need not sign decree.*

**582.** Certified copies of the judgment and decree shall be furnished to the parties, in the same manner as provided in Chapter IV in regard to the decrees of Courts of original jurisdiction.

*Copies of judgment and decree to be furnished to parties.*

**583.** A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the Registrar or Clerk of the Court, and sealed with the seal of the Court, shall be sent to the Court which passed the decree appealed against, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the Register of the suit.

*Certified copy of the decree to be transmitted to the Court whose decree is appealed against.*

**584.** Unless when otherwise provided in this Code or by any other law, the Appellate Court shall have the same powers in regular appeals in respect to adjournments, granting of time, arrest or attachment before judgment, issue of injunctions, examination of the parties or their Advocates and of witnesses or other persons, issue of Commissions, award of interest or mesne profits or otherwise, as are vested by this Code in Courts of original jurisdiction in respect of suits instituted under Chapter IV, the provisions of which and of Chapter VII relating to arbitration, unless when otherwise provided, shall apply to regular appeals so far as the same are applicable.

*Appellate Court to have same powers as Courts of original jurisdiction.*

**585.** If in the hearing of a regular appeal in which the decree or order which shall be passed in such appeal is made final by Section 596, any question of law or usage having the force of law, or the construction of a document which construction may affect the merits shall arise, on which the Court trying the appeal shall entertain reasonable doubt, the Court may, either of its own motion or on the application of any of the parties to the suit, draw up a statement of the case, and submit such statement with its own opinion for the decision of the High Court.

*Reference of question to High Court.*

**586.** The Court may proceed in the appeal notwithstanding a reference to the High Court, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no exe-

*Court may pass decree contingent upon opinion of High Court.*

cution shall be issued in any case in which such reference shall be made to the High Court, until the receipt of the order of that Court.

**587.** References made for the opinion of the High Court under Section 585, shall be heard by two or more Judges of that Court.

*Two or more Judges of High Court to hear reference.*

**588.** The High Court shall fix an early day for the hearing of the reference, and notice of such day shall be fixed up in the Court-house.

*High Court to fix day for hearing and to notify same.*

**589.** The parties to the appeal in which the reference is made may appear and be heard in the High Court in person or by an Advocate.

*Parties may appear and be heard in person or by Advocate.*

**590.** The High Court, when it has heard and determined the point referred to it, shall transmit a copy of its judgment under the seal of the Court and the signature of the Registrar, to the Court by which the reference was made, and such Court shall, on the receipt thereof, proceed to dispose of the appeal in conformity with the decision of the High Court.

*Judgment of High Court to be transmitted, and case disposed of accordingly.*

**591.** Costs, if any, consequent on a reference for the opinion of the High Court, shall be costs in the appeal.

*Costs of reference to High Court.*

**592.** When a party in whose favour a decree is passed in regular appeal is desirous of obtaining execution of the same, he shall apply to the Court which passed the decree against which the appeal was preferred, and such Court shall proceed to execute the decree passed in appeal, in the manner and according to the rules contained in Chapter V for the execution of decrees in suits.

*Execution of decree of Appellate Court.*

## CHAPTER X.

### OF SPECIAL APPEALS.

**593.** Unless when otherwise provided in this Code or by any other law, a special appeal shall lie to the High Court from all decrees passed in regular appeal by the subordinate Courts on the ground of the decision being contrary to some law or usage having the force of law, or its having failed to determine some issue of law or usage having the force of law, or on the ground of a substantial error or defect in law in the procedure as prescribed by this Code or any other law which may have produced error or defect in the decision of the case upon the merits.

*Special appeals to High Court.*

*Grounds of special appeal.*

**594.** If a suit in which a reference has been made to the District Court under Section 243 come before such Court in regular appeal, it may be a ground of special appeal from the decree passed by the District Court

*Special appeal from decree by District Court on reference under Section 243.*

on such regular appeal, that the opinion given by the District Court on the question of the law of the religion or established custom referred to such Court is erroneous or that the District Court had wrongly interpreted such law or custom.

Special appeal only on grounds mentioned in Sections 593 and 594.

**595.** No special appeal shall lie except on the grounds mentioned in the two last preceding Sections.

**596.** No special appeal shall lie from any decree or order which shall be passed on regular appeal by any subordinate Court in any suit of the nature cognizable in Courts of Small Causes when the debt, damage, or demand for which the original suit shall be instituted, shall not exceed the sum of five hundred Rupees. Every such decree or order shall be final.

**597.** A special appeal shall be presented in the High Court by an Advocate of the High Court within the period of sixty days, unless the applicant shew cause to the satisfaction of the High Court for not having presented it within such period. The period shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining copies of the decree and judgment appealed against.

**598.** The memorandum of appeal shall be written on a stamp paper of the value prescribed for regular appeals, and shall set forth concisely the grounds of objection to the decree appealed against without argument or narrative. Such grounds shall be numbered consecutively.

**599.** The memorandum of appeal shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance.

**600.** The memorandum shall be signed by the Advocate who presents it, and such Advocate shall certify in writing on the back of the memorandum that he has considered the grounds stated for a special appeal, and that in his opinion such of the grounds as he shall refer to by their numbers are well founded and sufficient. No Vakeel shall give such certificate unless he shall have been authorized in that behalf by the High Court.

**601.** The appellant shall not without the leave of the Court, be heard in support of any ground of objection other than the grounds set forth in the memorandum.

**602.** If the memorandum of special appeal be not written on a stamp paper of the prescribed value, or if it be not drawn up and presented in the manner herein before prescribed, or if it be not signed or have not such certificate duly endorsed upon it as in Section 600 mentioned, or if it do not state any ground on which a special appeal will lie under the provisions of Section 593 or Section 594, the Court may reject the memorandum or may return it to the party for the purpose of being amended within a time to be fixed by the Court. The order for rejecting the memorandum or for returning it to the party may be passed by a single Judge of the Court.

**603.** If the memorandum is in due form, it shall be registered in a book to be kept for the purpose, which shall be in the form contained in the Schedule F hereunto annexed, and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules provided in Chapter IX for regular appeals, so far as the same are applicable.

**604.** No application for a special appeal shall be filed or argued before the High Court except by an Advocate of the Court who shall have signed the certificate required by Section 600.

**605.** The decrees passed in special appeal shall be executed by the Court which made the decree in the suit in which the special appeal was preferred, in the manner and under the rules provided in Chapter V for the execution of decrees in suits.

**606.** The High Court may call for the record of any case decided by a Court of Small Causes, or on appeal, by any subordinate Court, in which no appeal shall lie to the High Court, if such Court of Small Causes or such subordinate Court on hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law, or to have passed any order contrary to law.

## CHAPTER XI.

### OF REGULAR AND SPECIAL APPEALS IN FORMA PAUPERIS.

**607.** Any person entitled under this Code or any other law to prefer a regular or special appeal, who may be unable to pay

the stamp duty required for the petition of appeal may on application be allowed to appeal *in formâ pauperis*, subject to the rules contained in Chapters IX or X, according as the application may be for the admission of a regular or special appeal, in so far as those rules are applicable.

**608.** An application made under the last preceding Section to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value

of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the High Court, and shall be presented in the

Appellate Court within the period allowed for the presentation of a memorandum of regular appeal or of special appeal as the case may be.

**609.** The application shall contain the particulars required by this Code to be set forth in a memorandum of regular appeal or special appeal, as the case may be, and shall be drawn up in the like manner.

**610.** The application shall have annexed to it a Schedule of any movable or immovable property belonging to the applicant, with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made, and, if the application be for the admission of a special appeal, of the judgment and decree of the Court of first instance.

**611.** If the application be for the admission of a regular appeal, and the Court, upon a perusal of the application and of the judgment and decree against which the appeal is made, shall see no reason to think that the decree appealed against is contrary to law or to some usage having the force of law, or is otherwise erroneous or unjust, or if the application be for the admission of a special appeal and the judgment and decree against which the appeal is made shall not appear to the Court, upon a perusal of the same and of the application, to be open to objection on any ground upon which a special appeal is admissible under Chapter X, the Court shall reject the application. The Court may also reject the application if it be not drawn up in the mode prescribed by this Chapter or if it do not bear the proper stamp: or the Court may return the application to the party presenting the same for the purpose of being amended within a time to be fixed by the Court. If the application lie to the High Court, the order rejecting it may be passed by a single Judge of the Court.

**612.** If the application be not rejected upon any of the grounds above mentioned, enquiry shall be made into the pauperism of the applicant. Such enquiry may be conducted either by the Appellate Court or by the Court against whose decision the appeal is made under the orders of the

Appellate Court: Provided that, if the applicant was allowed to sue or appeal *in formâ pauperis* in the Court against whose decree the appeal is made, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

**613.** The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring a regular appeal or an application for a special appeal, on a stamp of the value prescribed for petitions of regular appeals from decrees, or for applications for a special appeal as the case may be.

## CHAPTER XII.

### OF APPEALS FROM ORDERS.

**614.** An appeal shall lie from the following orders:—

- (1.) From orders rejecting or returning complaints under Section 58, 59 or 60, with exception of orders passed under Clause 4 or Clause 6 of Section 58, Clause 4 of Section 59 and Clause 1 of Section 60:
- (2.) From orders passed against the defendant under Section 115, 116, 118, 120, 124, 135, 139 or 140:
- (3.) From orders rejecting applications made under Section 172 or 173 in cases open to appeal:
- (4.) From orders passed under Section 235 or 259 for the sale of property attached:
- (5.) From orders passed under Section 332:
- (6.) From orders passed under Section 416 for setting aside, or under Section 417 for confirming, a sale:
- (7.) From orders passed under Section 431 and under Section 432, that the applicant shall be satisfied out of the proceeds of attached property:
- (8.) From orders passed under Section 435 in cases in which a regular appeal is allowed from the decree in the execution of which the order was passed:
- (9.) From orders passed under Section 417 that the defendant be discharged from Jail:
- (10.) From orders passed under Section 477 for issuing, or refusing to issue, execution on a bond.

**615.** An appeal shall lie from orders passed under the provisions of this Code, imposing fines or as to the levying of the fines so imposed, or for the imprisonment of any person except when such imprisonment is in execution of a decree.

**616.** When an appeal from an order is allowed by this Code or by any other law, it shall be heard by the Court competent to hear regular appeals from decrees of the Court which passed the order.

**617.** The period for presenting the appeal and the procedure thereon shall in all respects be the same as in a regular appeal from a decree in a suit, as prescribed in Chapter IX, the provisions of which shall apply to appeals from orders under this Chapter so far as they are applicable.

**618.** Unless when otherwise provided in this Code, no appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree; but if the decree be appealed against, any error, defect or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

**619.** Unless when otherwise provided in this Code, no appeal shall lie from any order passed after decree and relating to the execution thereof.

**620.** Unless when otherwise provided in this Code or by any other law, the orders passed in appeals preferred under this Chapter shall be final; but if in the course of the hearing of any such appeal any question of law or usage having the force of law, or the construction of a document, which construction shall affect the merits of the decision, shall arise, on which the Appellate Court shall entertain reasonable doubt, the Court may either of its own motion or on the application of any of the parties to the appeal, draw up a statement of the case, and submit it with its own opinion for the decision of the High Court.

**621.** The provisions contained in Sections 587 to 592, both inclusive, shall apply to references made to the High Court under the provisions of the last preceding Section.

**622.** Except as provided in this Code or in any other law, no appeal shall be allowed from any decree or order.

### CHAPTER XIII.

#### REVIEW OF JUDGMENT.

**623.** Any person considering himself aggrieved—  
Review of Judgment.

(a.) By a decree from which a regular appeal is allowed, but from which no appeal shall have been preferred—

(b.) By a decree passed in regular appeal from which a special appeal is allowed, but from which a special appeal shall not have been admitted—

(c.) By a decree from which an appeal is allowed to Her Majesty in Council, but from which no appeal shall have been preferred, or, if an appeal shall have been preferred, no proceedings shall have been transmitted to Her Majesty in Council—

(d.) By a decree passed in special appeal from which no appeal to Her Majesty in Council is allowed—

And who, from the discovery of new matter or evidence which was not within his knowledge or could not be adduced by him at the time when the decree was passed, or for any other good and sufficient reason, may be desirous of obtaining a review of the decree passed against him—may apply for a review of judgment to the Court which passed the decree.

**624.** The application, if the decree to which it refers was passed in a suit, shall be made within one month from the date of the decree, and within sixty days if the decree was passed in regular or special appeal, unless the party making the application shall be able to shew cause, to the satisfaction of the Court, for not having preferred the application within such limited period.

**625.** The application shall be written on the stamp paper prescribed for plaints, and shall set forth concisely and under distinct heads the grounds on which the review is applied for. Such grounds shall be numbered consecutively.

**626.** If the application be presented by an Advocate, he shall certify under his signature on the back of the application, that he has examined the grounds on which the review is applied for, and that he considers such of them as he shall refer to by their numbers well founded and sufficient.

**627.** No Advocate shall be allowed to argue in support of an application for a review of Judgment, who shall not have signed the certificate required by the last preceding Section, or if the application was presented by the applicant in person or by another Advocate, who has not signed a certificate to the same effect to be written on the back of the application.

**628.** If it appear to the Court that there is not sufficient ground for a review, it shall reject the application, but if the Court shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of



justice, it shall grant the review: Provided that no review shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree a review of which is applied for: Provided also that no review shall be granted by any Court subordinate to a District Court without the previous permission of such Court, and that no review shall be granted by a District Court without the previous permission of the High Court.

**629.** If the Judge or Judges or any of the Judges who shall have passed the decree, a review of which is applied for, shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the judgment to which the application refers, such Judge or Judges or any of them shall hear the application, and it shall not be competent to any other Judge or Judges of the Court in any such case to hear the application.

**630.** If the application for a review be heard by two Judges, and they differ as to whether the application should be admitted or rejected, the application shall be rejected.

**631.** If the application be heard by more than two Judges, the decision shall be according to the opinion of the majority, or if the opinions of the Judges be equally divided, according to the opinion of the Judge or Judges with whom the senior Judge concurs.

**632.** The order of the Court, whether for granting the review or rejecting the application, shall be final.

**633.** When an application for a review is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court may at once re-hear the case or make such order in regard to the re-hearing as it may deem proper.

**634.** Any order not subject to appeal may be reviewed by the Court by which it was passed subject to the rules contained in this Chapter so far as the same are applicable: Provided that no such review shall be granted by any Court subordinate to a District Court without the previous permission of such Court, and that no such review shall be granted by a District Court without the previous permission of the High Court.

#### CHAPTER XIV.

##### SPECIAL RULES RELATING TO THE HIGH COURTS.

**635.** The High Court may, in the exercise of its ordinary original Civil jurisdiction, try and determine suits of every description, if in the case of suits for immovable property the property shall be situate, or, in all other cases, if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or carry on business, or personally work for gain, within the local limits to which the jurisdiction of the Court extends: Provided that no High Court shall, in the exercise of its ordinary original Civil jurisdiction, be empowered to try any case in which the debt or damage or value of the property sued for, does not exceed five hundred Rupees, and which falls within the jurisdiction of a Small Cause Court situate within the local limits of the ordinary original Civil jurisdiction of such High Court.

**636.** The High Court shall have power to remove and to try and determine as a Court of extraordinary original Civil jurisdiction, any suit being or falling within the jurisdiction of any Court subject to its superintendence, other than a Court of Small Causes, when such High Court shall think proper so to do, either on the agreement of the parties to that effect, or for purposes of justice, the reason being recorded in the proceedings of the High Court removing the suit.

**637.** The High Court, in the exercise of its ordinary original Civil jurisdiction, may try and determine suits instituted in such Court for immovable property, notwithstanding that such property may be situate partly within the local limits of its ordinary original Civil jurisdiction, and partly within the local limits of the jurisdiction of some other Court.

**638.** No instrument or writing of any of the kinds specified as requiring stamps in Schedule B annexed to Act X of 1862 (to consolidate and amend the law relating to stamp duties), or in this Code, shall, except as is herein otherwise provided, be filed, exhibited or recorded in, or shall be received or furnished by any High Court in any case coming before such Court in the exercise of its ordinary or extraordinary original Civil jurisdiction, unless such instrument or writing be upon a stamp of a value not less than that indicated by the said Schedule B as the proper stamp for similar instruments and writings in any Civil Court below the Sudder Court, or than that indicated by this Code, or in any case coming before such Court in the exercise of its Appellate jurisdiction, unless such instrument or writing be upon a stamp of a value not less than that indicated by the said Schedule B as the proper stamp for similar instruments and writings in the Sudder Court, or than that indicated by this Code.

**639.** If in a suit instituted in a High Court in the exercise of its ordinary original Civil jurisdiction, or in appeal from a decision passed by a High Court in the exercise of such jurisdiction, the claim is not capable of being estimated at the selling price under Rule (c) of Article 11 of Schedule B of the said Act X of 1862, the plaint or petition of appeal shall be written on a stamp of the value of thirty-two Rupees. On the decision of such suit or appeal, if the decision be in favour of the plaintiff or appellant, the Court shall calculate the stamp duty payable, according to the rules above mentioned, on the amount or value of the property, if any, decreed or to which the right of the party in whose favour the decree is made is declared by the decree, whether immediately, or contingently; and if such amount or value exceed the sum of five hundred Rupees, the Court shall declare what additional stamp duty shall be paid, so that the total amount paid may be the same as would have been payable had the suit or appeal been originally instituted for the amount or value so estimated by the Court. The additional stamp duty ordered to be paid shall be costs in the suit, and shall be paid out of any money recovered on account of such costs, whether at the instance of the Government or of any of the parties, before any other costs in the suit are paid to any of the said parties.

**640.** The High Court and the Division Courts and Judges of the High Court shall take evidence, record their judgments, and the orders passed by them in such manner as the High Court shall by any rule from time to time direct.

**641.** If a Division Court is composed of more Judges than one, and the Judges are divided in opinion as to the decision to be given on any point, such point shall be decided according to the opinion of the majority of the Judges if there shall be a majority, but if the Judges shall be equally divided then the opinion of the senior Judge shall prevail.

**642.** Whenever a High Court or any Division Court or Judge of a High Court may consider it necessary that a decree made in the exercise of the ordinary original Civil jurisdiction of the said Court should be enforced before the amount of the costs incurred in the suit can be ascertained by taxation, the Court or Judge may order that the decree shall be executed forthwith except as to so much thereof as relates to the costs; and, as to so much thereof as relates to the costs, that the decree may be executed as soon as the amount of the costs shall be ascertained by taxation.

**643.** Whenever in any suit or proceeding coming before a High Court in the exercise of its ordinary original Civil jurisdiction, or in any appeal coming before a High Court from a decision passed by such Court in the exercise of its ordinary original Civil jurisdiction anything is directed by this Code to be done by or through an Advocate, such act may be done by or through an Attorney-at-Law of the Court; provided that no Attorney shall under the provisions of this Section plead in a High Court or in any Division Court or before a Judge of a High Court for any person.

**644.** Notices to produce documents, summonses to witnesses, and every other judicial process, issued in the exercise of the ordinary original Civil jurisdiction of the High Court, except writs of summons to defendants issued under Section 72 and writs of execution, may be served by the Attorneys in the suit or by persons employed by them, or in such other manner as the High Court shall by any rule or order from time to time direct.

**645.** If, in any suit instituted in the High Court in the exercise of its ordinary original Civil jurisdiction, the Division Court or Judge hearing such suit shall be of opinion that any matter of account, detail or other description may be more conveniently investigated by a Judge sitting in Chambers or by an Officer of the Court, it shall be lawful for such Court or Judge to refer such matter for the consideration of a Judge in Chambers or the Registrar or some other Officer, and such matter shall thereupon be investigated by such Judge or Registrar or other Officer, who shall proceed with such investigation and shall make his report thereon. Such report shall, if made by a Judge, be open to revision by any Court of Appeal to which the order or decree founded thereon may be appealable, and if made by the Registrar or other Officer shall be open to revision by the Judge by whom the matter was so referred, or by such other Judge as the Chief Justice shall appoint in that behalf. The Chief Justice shall from time to time determine in each case what Judge shall take or proceed with the investigation of any matter referred to a Judge under the provisions of this Section.

**646.** The High Court shall have power to make general rules and orders for regulating the conduct of business and the procedure of a single Judge, Registrar or other Officer in respect of investigations under the last preceding Section: Provided that such rules and orders shall not be inconsistent with the provisions of this Code or of any other law.

**647.** Whenever under any of the provisions of this Code the signature of a Judge of the High Court may be required, the signature of the Registrar or of any other Officer authorized in that behalf by the Chief Justice shall have the same effect as the signature of a Judge of the Court.

*Signature of Registrar or other appointed Officer to have same effect as that of Judge of High Court.*

**648.** The Chief Justice of the High Court shall from time to time declare what language shall be the language of the Court, in which all or any of the proceedings of the Court shall be conducted.

*Language of the High Court.*

**649.** The provisions of this Code relating to Assessors shall without any order of Government extend to suits and appeals instituted or tried in the High Courts.

*Provisions as to Assessors to apply to High Courts.*

**650.** Nothing contained in the eighth Section shall debar the High Court or any Judge of the High Court from rescinding or modifying any interlocutory order passed by it or him in the course of a suit.

*High Court or High Court Judge may rescind or modify interlocutory order.*

**651.** Nothing in this Code shall be held to authorize a Vakeel to appear, plead or act in the High Court in the exercise of its original Civil jurisdiction.

*Vakeels not to practise on the original side.*

**652.** The following Sections shall not apply to the High Court in the exercise of its ordinary original Civil Jurisdiction, namely, Sections 27, 28, 29, 30 and 34.

*Sections 27, 28, 29, 30 and 34 not to apply to High Court.*

**653.** Any act not of a judicial nature which this Code requires to be done by a Judge, may be done by the Registrar of the Court or by such other Officer of the Court as the Court may direct to perform such act.

*Non-judicial acts may be done by Registrar.*

**654.** All summonses obtainable under this Act by the parties to a suit in the High Court, may be obtained from the proper Officer by the Attorneys of the parties respectively, and may be served by such Attorneys on the persons named therein, and all rules contained in this Code relating to the service of summonses shall apply to summonses obtained under this Section.

*Summonses may be obtained from Registrar by Attorneys.*

**655.** Nothing in this Chapter shall extend or apply to any High Court in the exercise of its jurisdiction as a Court of Admiralty or Vice-Admiralty, or as a Court of Testamentary and Intestate or of Matrimonial jurisdiction, or as an Insolvent Court.

*Code not to affect High Court in exercise of Admiralty, Testamentary, Intestate, Matrimonial or Insolvent jurisdiction.*

**656.** This Chapter shall extend and apply only to High Courts which are or may hereafter be established under the Statute 24 and 25 Victoria, Chapter 104 (*An Act for establishing High Courts of Judicature in India*).

*This Chapter to apply only to High Courts established under 24 and 25 Vic., Chap. 104.*

**657.** Except as provided in this Chapter, the provisions of this Code shall apply to the High Courts established as aforesaid.

*Save as aforesaid the provisions of the Code to apply to High Courts.*

## CHAPTER XV.

### OF CRIMINAL PROCEDURE FOR OFFENCES COMMITTED IN OR AGAINST THE COURTS.

**658.** When in a case pending before any Court, any person shall appear to the Court to have been guilty of an offence described in Section 193, 194, 195, 196, 199, 200, 205, 206, 207, 208, 209 or 210 of the Indian Penal Code, the Court may commit such person to take his trial for the offence before the Court of Session, or, after making such preliminary enquiry as may be necessary, may send the case for investigation to any Magistrate having jurisdiction to try or commit for trial the accused person for the offence charged, and such Magistrate shall thereupon proceed according to law. (S. C. C. & R. C.)

*Procedure when certain offences under Chapter XI of Penal Code are committed in case pending before Court.*

**659.** The Court may send the person accused in custody or take sufficient bail for his appearance before the Magistrate, and may bind over any person to appear and give evidence before the Magistrate. (S. C. C. & R. C.)

*Court may take bail and bind over witnesses to give evidence.*

**660.** When the commitment is made by the Court, the Court shall frame a charge in the manner provided in Chapter XIII of the Code of Criminal Procedure, and shall send the same with the order of commitment and the record of the case to the Magistrate, and such Magistrate shall bring the case together with the witnesses for the prosecution and defence before the Court of Session. (S. C. C. & R. C.)

*Charge to be framed and sent to Magistrate.*

**661.** When any person shall appear to the Court to have been guilty in any suit or proceeding before such Court of any of the offences described in Sections 172, 173 and 174 of the Indian Penal Code, the Court may direct the

*Procedure in certain cases of contempt of lawful authority of public servants.*

person accused to be brought before it, and may either proceed as provided in Section 671 of this Code, or may send him in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate, and the Magistrate shall thereupon proceed according to law.

**662.** When in a case pending before any Court, there shall appear to the Court sufficient ground for sending for investigation to the Magistrate a charge of any such offence as is described in Section 463, 471, 475 or 476 of the Indian Penal Code, which may be preferred in respect to any document offered in evidence in the case, the Court may send the person accused in custody to the Magistrate or take sufficient bail for his appearance before the Magistrate. The Court shall send to the Magistrate the evidence and documents relevant to the charge, and shall bind over any person to appear and give evidence before such Magistrate. The Magistrate shall receive such charge and proceed with it according to law. (S. C. C. & R. C.)

**663.** If the person accused in any case falling under Section 658 or Section 662 of this Code, is a European British subject, the Court shall send such person in custody or take sufficient bail for his appearance before an Officer empowered to commit or hold to bail persons charged with offences for trial before a High Court of Judicature, and such Officer shall proceed according to law. (S. C. C. & R. C.)

**664.** When any such offence as is described in Section 175, 178, 179, 180 or 228 of the Indian Penal Code, is committed in the view or presence of the Court, the Court may cause the offender, whether he be a European British subject or not, to be detained in custody, and may, at any time before the rising of the Court on the same day, take cognizance of the offence, and adjudge the offender to punishment by fine not exceeding two hundred Rupees, and by imprisonment in the Civil Jail for a period not exceeding one month if such fine be not sooner paid. In every such case the Court shall record the facts constituting the contempt, with any statement the offender may make, as well as the finding and sentence. (S. C. C. & R. C.)

**665.** If the Court shall consider that a person accused of any of the offences mentioned in the last preceding Section should be imprisoned, or that a fine exceeding two hundred Rupees should be imposed upon him, such Court, after recording the facts constituting the contempt and the statement of the accused person as hereinbefore provided, shall forward the case to a Magistrate, or, if the accused person be a European British subject, to a Justice of the

Peace, and shall cause bail to be taken for the appearance of such accused person before such Magistrate or Justice of the Peace, or if sufficient bail be not tendered, shall cause the accused person to be forwarded under custody to such Magistrate or Justice of the Peace. (S. C. C. & R. C.)

**666.** If the case be forwarded to a Magistrate, such Magistrate shall proceed to try the accused person in the manner provided for trials before a Magistrate, and it shall be competent to such Magistrate to adjudge such offender to punishment as provided in the Section of the Indian Penal Code under which he is charged. If the case be forwarded to a Justice of the Peace, such Justice of the Peace shall enquire into the circumstances, and shall have the same powers of punishing the offender as are vested by the Statute 53 Geo. III, Cap. 155, Section 105, in a Justice of the Peace for the punishment of an assault, and may deal with the offender in the same manner as is provided in that behalf in the said Statute. If such Justice of the Peace shall consider the offence to require a more severe punishment than a Justice of the Peace is competent to award under the said Statute, he may commit the offender to a High Court of Judicature. (S. C. C. & R. C.)

**667.** When any person has been sentenced by the Court to punishment under Section 664 for refusing or omitting to do any thing which he was lawfully required to do, it shall be competent to the Court to discharge the offender or to remit the punishment on the submission of the offender to the order or requisition of the Court. (S. C. C. & R. C.)

## CHAPTER XVI.

### MISCELLANEOUS.

**668.** The High Court shall have power to make and issue general rules not inconsistent with the provisions of this Code or of any other law for regulating the practice and proceedings of that Court and the Courts subordinate thereto and from time to time to alter any such rules. Any rules framed under this Section shall be published in the Official Gazette of the place where the High Court is held. (S. C. C. & R. C.)

**669.** The High Court shall also have power to frame forms for every proceeding in such Court and the subordinate Courts for which the High Court shall think it necessary that forms should be provided; for keeping all books, entries, and accounts to be kept by the Officers, and for the preparation and submission of any statements to be prepared and submitted by such Courts.



**670.** When in any part of British India in which this Code shall have operation, the highest Civil Court of appeal consists of a single Judge, he shall have all the powers vested by this Code in two or more Judges of the High Court.

If highest Court of appeal consist of only one Judge, he has all the powers of two or more High Court Judges.

**671.** The language which, at the time this Code comes into operation, is the language of any subordinate Court, shall continue to be the language of such Court until the Local Government shall otherwise order; but it shall be lawful for the Local Government from time to time to declare what language shall be the language of every such Court in which all or any of the proceedings shall be conducted. (S. C. C. R. C.)

Language of subordinate Courts.

**672.** The Local Government shall fix the establishments of Ministerial Officers and other Officers requisite for the Courts other than the High Court within the limits of its jurisdiction, and, with the sanction of the Governor-General of India in Council, shall assign to such Officers such salaries as from time to time such Government may deem proper. (S. C. C. & R. C.)

Ministerial Officers.

**673.** The High Court shall define and prescribe the duties to be performed by the Ministerial and other Officers on its establishment as well as by the Ministerial and other Officers on the establishments of subordinate Courts. (S. C. C. & R. C.)

High Courts to define duties of all Ministerial Officers.

**674.** No person shall be liable to arrest under this Code while attending, going to, or returning from the Court either in obedience to a summons or as a party to a suit, appeal or other proceeding.

Persons exempt from arrest.

**675.** Nothing in this Code shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Pancháyats under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request: or the jurisdiction of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Madras and Bombay respectively, for the trial of small suits in Military Bázars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Pancháyats in regard to suits against Military persons, according to the rules in force under the Presidency of Madras.

Saving of jurisdiction and procedure of Village Moonsiffs and Village and District Pancháyats in Madras—  
of Military Courts of Request—  
or procedure of a single Officer appointed to try small suits in Madras and Bombay—  
suits in Military Bázars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Pancháyats in regard to suits against Military persons.  
or of Military Pancháyats in Madras.

**676.** Nothing in this Code shall be held to affect the jurisdiction exercised by certain Jaghirdars and other authorities invested with powers under the provisions of Regulation XIII, 1830 of the Bombay Code (for vesting certain Jaghirdars, Surinjamidars, and Khandars with the power of deciding suits within the boundaries of their respective estates), and Act XV of 1840 (for extending Regulations XV, 1827, and XIII, 1830, of the Bombay Code to the Agents of Foreign Sovereigns) or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI, 1816, of the Bengal Code (for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack) or cases of the nature defined in Regulation XXIX, 1827 (for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khundesh), Regulation VII, 1830 (for bringing under the operation of the Regulations the Territories comprised in the Southern Mahratta Country), Regulations I and XVI, 1831 of the Bombay Code (for extending the jurisdiction of the Agent of Government in the Dekkan and Khundesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned), Act XIX of 1835 (relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan), and Act XIII of 1842 (to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Code, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts mentioned in this Section.

Saving of certain special or local laws.

To what extent this Code applies to them.

**677.** Save as hereinafter provided, this Code shall not extend to any suit or proceeding in any Court of Small Causes established under Act IX of 1850 (for the more easy recovery of Small Debts and Demands in Calcutta, Madras and Bombay): but the Local Government within the limits of whose jurisdiction any such Court is held, may, by notification published in the Official Gazette, extend to such Court this Code or any part thereof which relates to Courts of Small Causes except as to appeals and reviews of judgment.

This Code not to apply to Presidency Small Cause Courts, till specially extended to them.

**678.** This Code shall not extend to any part of British India in which Act VIII of 1859, as amended by Act XXIII of 1861, shall not be in force at the date of the passing of this Code until it shall have been specially extended to such part by an order of the Governor-General of India in Council or of the Local Government, duly published in the Official Gazette.

Parts of British India excepted from operation of this Code.

**679.** This Code shall not be deemed to repeal or affect the following provisions and parts of Act I of 1863 (to define the jurisdiction and to regulate the procedure

This Code not to affect certain provisions of Act I of 1863.

of the Courts of Civil Judicature in British Burmah, and to provide for the extension of certain Acts to the said Territory); that is to say, it shall not be deemed to repeal or affect so much of Section 7 as relates to the second appeal, or Sections 8, 10, 11, and 12, or Section 14 so far as it relates to the time for appeals whether regular or otherwise, or Section 15, or Section 16 so far as it relates to the time for appeals, or Section 17, except that the grounds on which a special appeal may be allowed as therein referred to shall be such grounds as are specified in Section 594 or Section 595 of this Code, or Section 20 so far as it relates to the stamp paper on which applications may be written and the time for appealing, or Section 27.

**680.** Nothing in this Code shall be deemed to repeal or affect the operation of Act XI of 1863 (to consolidate and amend the Law relating to the employment and remuneration of peons for the service and execution of Civil process) or Act V of 1863 of the Council of the Lieutenant-Governor of Bengal (to amend the Law relating to the employment and remuneration of peons for the service and execution of the process of the Civil and Revenue Courts). (S. C. C. & R. C.).

**681.** When in any Act passed prior to the coming into operation of this Code, reference is made to Act VIII of 1859, Act XXIII of 1861, or the "Code of Civil Procedure," such references shall be read as applying to this Code, and when any procedure is directed to be in accordance with the provisions of Act VIII of 1859, Act XXIII of 1861, or the "Code of Civil Procedure," such procedure shall

be deemed to be directed to be in accordance with the provisions of this Code. (S. C. C. & R. C.)

**682.** The procedure herein prescribed shall be followed from the date on which this Code shall come into operation, in all suits and appeals, regular, special or otherwise, and, as far as it can be made applicable, in all miscellaneous cases and proceedings instituted in any Court. But this Code shall not in any way invalidate or alter the effect of any thing which shall have been done in any suit, appeal, miscellaneous case, or proceeding prior to such date, and every thing which shall have been so done shall be deemed good and shall have effect so far as circumstances will permit, in like manner as if the same had been done in due course under this Code: Provided that no party to whom a right of appeal, whether regular, special or otherwise, shall have accrued under any law for the time being in force before this Code shall have come into operation, shall be deprived of such right by any thing contained in this Code, if he shall exercise such right by preferring his appeal to the proper Court in due form within the time allowed for preferring appeals by the law under which the right of appeal accrued. (S. C. C. & R. C.)

**683.** The Governor General of India in Council may invest the Chief Executive Officer of any part of British India under the immediate administration of the Government of India with the powers vested by this Code in a Local Government.

**684.** This Code shall come into operation on the day of 186. (S. C. C. & R. C.)

## SCHEDULE A.

## ENACTMENTS REPEALED.

Number and date of Regulations.	Title.	Extent of repeal.
	BENGAL.	
Regulation III of 1793	For extending and defining the jurisdiction of the Courts of Dewanny Adawlut, or Courts of Judicature for the trial of Civil suits in the first instance, established in the several Zilas, and in the cities of Patna, Dacca, and Moorshedabad	Section 14.
" IV of 1793	For receiving, trying, and deciding suits or complaints declared cognizable in the Courts of Dewanny Adawlut established in the several Zilas, and in the cities of Patna, Dacca, and Moorshedabad	Sections 14 and 20.
" VI of 1793	For extending and defining the powers and duties of the Court of Sudder Dewanny Adawlut, and prescribing Rules for receiving and deciding upon Appeals from the decisions of the Provincial Courts of Appeal	Sections 13 and 14.
" X of 1795	For empowering the Sudder Dewanny Adawlut to receive and decide upon Appeals from Decisions of the Provincial Court of Appeal established in the Province of Benares; and for defining the jurisdiction, powers, and authorities of the Sudder Dewanny Adawlut in that Province	Sections 1 and 4.
" II of 1798	For authorizing a Review of Causes decided by the Civil Courts in certain cases; and for explaining Parts of Regulations IV, V and VI, 1793	Sections 1 and 4.
" II of 1801	For the more speedy and effectual administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut	Sections 1, 2, 5 and 6, so far as they relate to the Sudder Dewanny Adawlut.
" XII of 1811	For augmenting the number of Judges of the Courts of Sudder Dewanny Adawlut, according as may from time to time appear necessary for the despatch of the business of those Courts	So far as it relates to the Sudder Dewanny Adawlut.

## BENGAL.—(Continued).

Regulation XXV of 1814 -	For modifying the constitution and jurisdiction of the Sudder Dewanny Adawlut and of the Provincial Courts, for expediting the trial of Civil Causes in those Courts, and for defining more fully the powers of single Judges holding the sittings of those Courts, or of the Nizamut Adawlut and Courts of Circuit	Section 18, so far as it relates to the Sudder Dewanny Adawlut.
" III of 1829 -	For abolishing certain Official Designations amongst the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, and of the Provincial Courts; for amending the Rules at present in force, which require the Judges of the Courts of Sudder Dewanny and Nizamut Adawlut, or other public Officers, to take the prescribed Oaths of Office before the Governor General in Council; for providing for the Decision of Civil Suits and Appeals in the Provincial Courts in certain Cases; for amending Regulation VIII of 1825, and for discontinuing the Offices of Hindu and Mahomedan law Officer in the Provincial Courts	Sections 1, 2 and 3.
" VI of 1831 -	For the appointment of one or more Judges to be ordinarily stationed at Allahabad for the purpose of exercising the powers and authority of the Sudder Dewanny and Nizamut Adawlut within the Province of Benares, the ceded and conquered Provinces, including the Districts of Meerut, Shaharunpoor, Mozuffurnuggur, and Bootundshuhur, which are now subject to the Chief Commissioner at Delhi, and the powers and authority of the Nizamut Adawlut in the Province of Kumaon and the Sangoor and Nerbudda Territories	Section 7, so far as it relates to the Court of Sudder Dewanny Adawlut.
" IX of 1831 -	For the more speedy and efficient administration of justice in the Courts of Sudder Dewanny and Nizamut Adawlut	Section 9, so far as it relates to the Court of Sudder Dewanny Adawlut.
" VI of 1832 -	For enabling European functionaries to avail themselves of the assistance of respectable Natives in the administration of Civil or Criminal Justice, and for modifying or dispensing with Futwas by Mahomedan Law Officers in certain trials	So far as it relates to Courts for the administration of Civil Justice.
" V of 1802 -	For constituting a Sudder Adawlut, or Chief Court of Civil Judicature, for trying Appeals from the decisions of the Provincial Courts of Appeal	Sections 11, 12, 14, 17, 22 and 28.

MADRAS.



Number and date of Regulations.	Title.	Extent of repeal.
Regulation IV of 1806	<p>MADRAS.—(Continued.)</p> <p>For the more speedy and effectual administration of Justice in the Courts of } Sudder Adawlut and Foujdarry Adawlut</p> <p>For modifying the constitution of the Courts of Sudder Adawlut and Foujdarry } Adawlut, so far as relates to the appointment of the Judges of those Courts</p> <p>For modifying the jurisdiction of the Zilla and Provincial Courts, and the } Court of Sudder Adawlut, in the trial of original suits and appeals; for } amending some of the Rules at present in force regarding the admission } and trial of special and summary Appeals from decisions passed in regular } suits; and for limiting and altering some of the existing provisions respect- } ing the Pleadings and Processes, and the mode of executing Decrees in } regular suits and Appeals</p> <p>To prohibit Judges from sitting on the trial of Appeals in causes tried before } themselves; and to empower the Governor in Council to increase, at his } discretion, the number of Judges of the Provincial Courts of Appeal and } Circuit, and of the Sudder and Foujdarry Adawlut</p>	So far as it relates to the Sudder Adawlut.
"		The whole.
"		Section 8, Clause 2.
"		The whole.
Number and date of Acts.	Title.	Extent of repeal.
Act XI of 1836		Section 2.
"		
" VII of 1840	For authorizing the appointment of Unconvenanted Servants to the Offices of } Deputy Register and Assistant Register to the Sudder Courts of the Presiden- } cy of Fort William in Bengal.	So far as it relates to the Court of Sudder Dewanny Adawlut.

Number and date of Act.	Title.	Extent of repeal.
Act XXIII of 1840	For executing within the local limits of the jurisdiction of Her Majesty's Courts legal process issued by authorities in the Mofussil	So far as it relates to the execution of the process of Civil Courts.
" XII of 1849	For improving the jurisdiction of the Sudder Adawlut of Bombay, and for amending Section 36 Regulation II, 1827 of the Bombay Code	The whole.
" II of 1851	To amend Regulation XIII, 1810 of the Bengal Code, for the trial of Appeals	The whole.
" VII of 1853	To amend the law of arrest on mesne process in Civil actions in Her Majesty's Courts of Judicature and to provide for the subsistence of prisoners confined under Civil process of any of the said Courts	The whole.
" VIII of 1859	For simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter	The whole.
" XXIII of 1861	To amend Act VIII of 1859 ( <i>for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter</i> )	The whole.
" X of 1862	To consolidate and amend the Law relating to Stamp Duties	Sections 17 and 26.
" IX of 1863	To amend the Code of Civil Procedure	The whole.
" XVIII of "	To make provision for the speedy and efficient disposal of the business now pending in the Office of the Master of the High Court of Judicature at Fort William in Bengal, and to provide for the abolition of the oaths now administered to Hindoos and Mahomedans in the said Court, and to amend the Code of Civil Procedure in respect of process issued out of the said Court in the exercise of its original Civil jurisdiction	Sections 5, 7, 8, 10, and 11.



## SCHEDULE C.

No. of Suit.

In the Court of at

To

Plaintiff.

Defendant

(Name, description, and address.)

Whereas [here enter the name, description, and address of the plaintiff] has instituted a suit in this Court against you [here state the particulars of the claim as in the Register]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [if not specially required to appear in person, state—"in person or by an Advocate of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"] to answer the above-named plaintiff. [If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"]; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

## SCHEDULE D.

No. of Suit.

In the Court of at

Plaintiff.

Defendant.

To (Name, description, and address.)

You are hereby summoned to appear in this Court in person on the day of at in the forenoon, to give evidence on behalf of the plaintiff (or the defendant) in the above-mentioned suit, and to produce (here describe with convenient certainty any document the production of which may be required. If the Summons be only to give evidence, or if it be only to produce a document, it must be expressed accordingly): and you are not to depart thence without the leave of the Court.



SCHEDULE E.

Court (or High Court) at  
Register of Appeals from Decrees in the year 18

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree Appealed From.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE F.

High Court at  
Register of Special Appeals.

Date of Memorandum.	No. of Appeal.	Appellant.			Respondent.			Decree Appealed From.				Appearance.			Judgment.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit, and of Appeal.	Particulars.	Amount or Value.	Day for parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

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# APPENDIX TO The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, APRIL 29, 1865.

Home Department.

## LEGISLATIVE.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th April 1865, and is hereby promulgated for general information :—

ACT No. XVII of 1865.

*An Act to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.*

Whereas it is expedient to amend the Law relating to Customs duties; It is enacted as follows :—

1. In lieu of the Customs duties authorized to be charged in Act VII of 1859 (to alter the duties of Customs on goods imported or exported by Sea), Act XXIII of 1859 (to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively), Act X of 1860 (to amend Act VII of

1859 to alter the duties of Customs on goods imported or exported by Sea), Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859), Act XXIII of 1862 (to amend Act XI of 1862), and Act XXIII of 1864 (to amend the law relating to the Customs duties on goods imported by Sea), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (for equalizing the duties on goods imported and exported on Foreign and British bottoms and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company), or to affect the provisions of The Consolidated Customs' Act.

2 So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor General on the ninth day of March 1865; but save as aforesaid, this Act shall take effect from the first day of April 1865.

Short title.

3. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

## SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

1. Bullion and Coin	...	...	...	...	Free
2. Precious Stones and Pearls	...	...	...	...	"
3. Grain and Pulse	...	...	...	...	"
4. Horses and other living Animals	...	...	...	...	"
5. Ice	...	...	...	...	"
6. Coal, Coke, Bricks, Chalk, and Stones	...	...	...	...	"
7. Cotton Wool	...	...	...	...	"
8. Wool	...	...	...	...	"
9. Flax	...	...	...	...	"
10. Hemp	...	...	...	...	"
11. Jute	...	...	...	...	"
12. Hides and Skins, raw	...	...	...	...	"
13. Books	...	...	...	...	"
14. Paper	...	...	...	...	"

15.	Maps, Prints, Music and Works of Art	...	...	...	Free.
16.	Seeds when imported by any Public Society for gratuitous distribution	...	...	...	"
17.	Agricultural Implements	...	...	...	"
18.	Firewood	...	...	...	"
19.	Machinery used exclusively for purposes of Agriculture, Navigation, Mining or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	...	...	...	"
And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery or materials forming component parts thereof, and such decision shall be final in law.					
20.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	...	...	...	"
21.	Guano and manures of all kinds	...	...	...	"
22.	Bottles	...	...	...	"
23.	Wines and Liqueurs	...	one Rupee the imperial gallon.	...	"
24.	Porter, Ale, Beer, Cider, and other similar fermented Liquors	...	one anna the imperial gallon.	...	"
25.	Spirits	...	three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.	...	"
Provided that 10 per cent. <i>ad valorem</i> shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.					
26.	Iron (which shall not be taken to include ironmongery cutlery or hard-ware)	...	one per cent. <i>ad valorem</i> .	...	"
27.	Hops	...	one per cent. <i>ad valorem</i> .	...	"
28.	Tobacco, whether manufactured or not	...	ten per cent. <i>ad valorem</i> .	...	"
29.	Piece Goods	...	five per cent. <i>ad valorem</i> .	...	"
30.	Twist	...	three and a half per cent. <i>ad valorem</i> .	...	"
31.	All other articles not included in the above enumeration	...	seven and a half per cent. <i>ad valorem</i> .	...	"

## SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in The Consolidated Customs' Act from any Port in British India.

1.	Bullion and Coin	...	...	...	Free
2.	Precious Stones and Pearls	...	...	...	"
3.	Horses and other living Animals	...	...	...	"
4.	Rum	...	...	...	"
5.	Spirits	...	...	...	"
6.	Tobacco and all preparations thereof	...	...	...	"
7.	Cotton Wool	...	...	...	"
8.	Flax	...	...	...	"
9.	Hemp	...	...	...	"
10.	Books	...	...	...	"
11.	Maps, Prints, and Works of Art	...	...	...	"
12.	Teak Timber	...	...	...	"
13.	Coal	...	...	...	"
14.	Iron	...	...	...	"
15.	Grain and pulse of all sorts	...	three annas the Indian maund.	} of forty seers of eighty tolahs to the seer.	"
16.	Saltpetre	...	one Rupee the Indian maund.		"
17.	Indigo	...	three Rupees the Indian maund.		"
18.	Lac Dye and Shell Lac	...	four per cent. <i>ad valorem</i> .		"
19.	Hides and Skins, raw	...	two per cent. <i>ad valorem</i> .		"
20.	Sugar	...	two per cent. <i>ad valorem</i> .		"
21.	Raw Silk and Silk Chussum	...	two per cent. <i>ad valorem</i> .		"
22.	All country articles not enumerated or named above	...	three per cent. <i>ad valorem</i> .		"

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,

Home Dept. (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

Act No. XVIII of 1865.

*An Act to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).*

Whereas it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties); It is enacted as follows :—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof :—

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on or on any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, or on any of the Deeds, Instruments, and Writings, belonging to such class; or on any of the Deeds, Instruments, and Writings, as aforesaid, when executed or granted by or to any particular class of persons or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancelment or variation shall also be published in the Official Gazette.

3. Article eleven of Schedule B to the said Act X of 1862, shall be read as if after the words and figures "Act III of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section six of Act XXII of 1864 (to make provision for the administration of Military Cantonments)."

4. This Act shall be read with and taken as part of the said Act No. X of 1862.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

Act No. XIX of 1865.

*An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.*

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows :—

1. This Act shall be called "The Punjab Courts' Act, 1865."

2. In this Act "Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land" does not apply to any land excluded from a settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

3. For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District Court, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

4. There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed unless otherwise provided in such Act, namely :—

- (1).—The Court of the Tahsildar.
- (2).—The Court of the Assistant Commissioner with ordinary powers.
- (3).—The Court of the Assistant Commissioner with special powers.
- (4).—The Court of the Assistant Commissioner with full powers.
- (5).—The Court of the Deputy Commissioner.
- (6).—The Court of the Commissioner.
- (7).—The Court of the Judicial Commissioner.

5. The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

6. The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.



**7.** The Assistant Commissioner with ordinary Jurisdiction of Assistant Commissioner with ordinary powers. powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

**8.** The Assistant Commissioner with special Jurisdiction of Assistant Commissioner with special powers. powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

**9.** The Criminal powers to be exercised by the Criminal powers Courts of the said first, second, and third grades respectively, shall be those with which the 2nd, and 3rd grades, several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section twenty-three of the Code of Criminal Procedure.

**10.** The Assistant Commissioner with full Jurisdiction of Assistant Commissioner with full powers. powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

**11.** The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the fourth Section of this Act, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV of 1862 (to amend the Code of Criminal Procedure).

**12.** The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

**13.** Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

**14.** The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

**15.** The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

**16.** The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

**17.** If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

**18.** If the suit be for immovable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

**19.** If the Districts within the limits of which the immovable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be sub-

mitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit. \*

**20.** Whenever the number of cases depending in any District or Divisional Court shall be so great

Local Government may invest additional Officers with powers of Commissioner, and Small Cause Court Judges with powers of Assistant Commissioner.

as to prevent their being disposed of within a reasonable period, the local Government may, with the previous sanction of the Governor General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

**21.** In any District in which a Settlement of

Local Government may invest special Officers with Civil powers of Commissioners, &c., in Districts in course of settlement.

land revenue is in progress, the local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land or the rent, revenue or produce of land, on the Revenue, and not on the Civil side of their Courts. The local Government may also, with the previous sanction of the Governor General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land or the rent, revenue or produce of land, such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.

**22.** In any District in which a Settlement of

Local Government may invest Financial Commissioner with powers of Chief Court for certain purposes.

Land Revenue is in progress, the local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under the twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land: Provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.

**23.** Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the twenty-first or the twenty-second Section of his Act.

**24.** No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

**25.** This Act shall commence and come into operation on the first day of May 1865.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

Act No. XX of 1865.

*An Act to amend the law relating to Pleaders and Mookhtars.*

Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows:—

*Preliminary.*

**Short title.**

**1.** This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

**2.** In this Act, unless there be something repugnant or inconsistent in the subject or context—

**Words importing the singular number include the plural, and words importing the plural number include the singular.**

"Section."

"Section" means a Section of this Act.

"Person" includes any Company or Association or body of persons, whether incorporated or not.

"Pleader."

"Pleader" includes Vakeels.

"Collector" includes Officers performing any of the duties of a Collector of land revenue.

"Magistrate." "Magistrate" includes Officer exercising any of the powers of a Magistrate.

"Judge" means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

"Court" means all Courts subordinate to the High Court, including Courts of Small Causes.

"District" means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

3. So far as they affect the Territories to which this Act extends, the enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

#### Of Pleaders and Mookhtars.

4. The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons; and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time, vary and add to such rules.

5. Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, in the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a

Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British India shall be, or shall be qualified to act, as a Pleader already qualified in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

6. To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

7. The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

8. The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

9. Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

10. The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court.—Rupees fifty:

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five:

(c.) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(e.) In the High Court and any subordinate Court—Rupees twenty-five:

(f.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(g.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees eight:

(h.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

#### 11. Pleaders duly admitted and enrolled under

Pleaders may practise in Criminal Courts and Revenue Offices.

this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid

Mookhtars may plead in Criminal Courts.

may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

#### 12. Every person who shall have been admitted

Persons admitted in one Court admissible to practise in other Courts of same or subordinate jurisdiction.

to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that, neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

#### 13. Except as hereinafter provided, any person

Uncertificated persons practising as Pleaders or Mookhtars to be liable to fine or imprisonment and to be incapable of recovering fees.

who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office in which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months.

He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

#### 14. The High Court may suspend or dismiss

High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.

any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

#### 15. The High Court may also, after such

High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.

enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

#### 16. If any Pleader or Mookhtar practising in

Procedure when charge of unprofessional conduct is brought in a subordinate Court.

any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed, and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any Officer other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

#### 17. The High Court, in any case in which a

High Court may call for the record in case of acquittal under Section 16.

Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.



**18.** When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

*Of Agents practising in the Revenue Offices.*

**19.** No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

*No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as here provided:*

**20.** The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

*Names of Revenue Agents to be enrolled.*

**21.** Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

*Form of Certificate.*

**22.** The stamp on such certificate, whether original or renewed, shall be of the following value—

*Value of stamp.*

On a certificate authorizing the holder to practise as a Revenue Agent.

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen.

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

**23.** The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

**24.** To facilitate the ascertainment of the Local Government to qualifications mentioned in the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

**25.** Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

**26.** The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

**27.** The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

**28.** If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

**29.** If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice

that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established, and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

**30.** The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

**31.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue, shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

**32.** The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

**33.** When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months.

**34.** Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act ex-

tends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

**35.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

**36.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

#### *Of the Remuneration of Pleaders and Revenue Agents.*

**37.** The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

**38.** The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

**39.** Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be ne-

cessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

#### Miscellaneous.

**40.** Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

**41.** The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

**42.** Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

**43.** Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

**44.** With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakeels and Attorneys-at-law, admitted and enrolled by any High Court under Letters Patent.

which such Court is constituted, nor to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qualification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

**45.** Every person now or hereafter enrolled as an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding any thing hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Officer is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

**46.** Every person now or hereafter enrolled as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

**47.** This Act shall take effect in the Territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

**48.** From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

## FIRST SCHEDULE.

*Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.*

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section xxv.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1856.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Port William in Bengal.	So much of Section lxxi as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix.



## SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [or Mookhtar], whose place [or places] of business is [or are] at \_\_\_\_\_ hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, or the Moonsiffs' Courts as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 186 \_\_\_\_\_

C. D.

Registrar [or as the case may be] of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

## THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. \_\_\_\_\_ of \_\_\_\_\_ is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower Provinces, or as the case may be], and in any office subordinate thereto in such Provinces, for the period of one year from the date thereof. Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 186 \_\_\_\_\_

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of  
India, Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

ACT No. XXI of 1865.

*An Act to define and amend the Law relating to Intestate Succession among the Parsees.*

Whereas it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows:—

1. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

2. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

3. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

4. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.

5. If any child of a Parsee Intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.

6. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the

Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.

**7. When a Parsee dies leaving neither lineal**

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.

**8. The following portions of the Indian Succession Act, 1865, shall not**

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.

**THE FIRST SCHEDULE.**

- (1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.
- (2.) Grandfather and grandmother.
- (3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (4.) Great grandfather and great grandmother.
- (5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

**THE SECOND SCHEDULE.**

- (1.) Father and mother.
- (2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.
- (3.) Paternal grandfather and paternal grandmother.
- (4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (5.) Paternal grandfather's father and mother.
- (6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (8.) Maternal grandfather and maternal grandmother.
- (9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.
- (10.) Son's widow, if she have not re-married at or before the death of the Intestate.

(11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

(12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

(14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

(15.) Maternal grandfather's father and mother.

(16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

(17.) Paternal grandmother's father and mother.

(18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,  
Home Dept., (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th April 1865, and is hereby promulgated for general information:—

**ACT No. XXII of 1865.**

*An Act to amend Act No. XVIII of 1864, (to provide for the appointment of a Municipal Committee for the City of Lucknow).*

Whereas it is expedient to amend Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow); It is enacted as follows:—

**1.** Section twenty-one of the said Act No. XVIII of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

**2.** It shall be lawful for the Governor-General of India in Council, by Order published in the Gazette of India, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members, of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

**3.** This Act shall be read and taken as part of the said Act No. XVIII of 1864.

This Act to be construed with Act XVIII of 1864.

WHITLEY STOKES, upon or in the case, deliver  
Offg. Asst. Secy. to the Court a written in-  
Hinged by him, stating for

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th April 1865, and is hereby promulgated for general information :—

ACT No. XXIII of 1865.

*An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.*

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; It is enacted as follows :—

1. In this Act, unless there be something Interpretation of repugnant in the subject or terms.

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section" denotes a Section of this Act.

Words in the singular include the plural: words in the plural include the singular.

Gender. Words importing the masculine gender include females.

2. The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge without further appointment.

3. The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

4. The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

5. Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or such authority or person as he may commission to receive the same :—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

6. The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

7. The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

8. Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

9. The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

10. Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-sutor; (3) any person who, for

the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit, or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make Rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

**Licensing of Pleaders.**

or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court generally, or specially for the particular occasion. It shall be lawful for the Judges to make Rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

**Rules regarding their qualifications and admission.**

**11.** The Chief Court may for sufficient reason

**Power to suspend or revoke Pleaders' license.**

revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

**12.** The fees to be received by any Pleader,

**Fees of Pleaders to be subject to control.**

other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

**13.** The Chief Court shall be the highest

**The Chief Court to be the ultimate Court of Appeal from the Civil and Criminal Courts in the Punjab.**

Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

**14.** The Chief Court may remove and try and

**Extraordinary original Civil jurisdiction.**

determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

**15.** The Chief Court may withdraw any suit

**Power to transfer suits and appeals from one subordinate Court to another.**

or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

**16.** The Chief Court may call for the record

**Power to call for record of cases decided by subordinate Courts.**

of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

**17.** All special appeals preferred after the date

**Special appeal from Courts in Punjab to lie only to Chief Court.**

on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

**18.** Save as in this Act is otherwise provided,

**Regulation of proceedings in Civil suits.**

the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the Rules relating to Civil Procedure for the time being in force in the Punjab.

**19.** In the exercise of its Civil jurisdiction,

**In exercise of Civil jurisdiction, law of the local Courts to apply.**

Original as well as Appellate, such Rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

**20.** The Chief Court shall have power, as a

**Power to try European British subjects.**

Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

**21.** Any Justice of the Peace or Magistrate

**Charge to be delivered to Registrar with commitment of European British subject.**

who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for



what offence such European British subject is so committed or held to bail.

**22.** The Chief Court shall consider the charge, and may, if it appear

Chief Court to consider, and, if it will, to amend, alter or add to the charge.

Charge with amendments, alterations or additions (if any) to be recorded.

charge with such amendments, alterations or additions (if any) gratis.

necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or additions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such

**23.** The person charged shall also, if he demands them at a reasonable

Accused to have copies of examinations.

time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

**24.** Upon charges recorded as aforesaid, persons committed to custody or

Effect of charge.

held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

**25.** When any such charge shall have been

Chief Court may order an unsustainable charge not to be proceeded with.

recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged, appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court.

Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

**26.** The Chief Court shall ordinarily hold its

Places of holding sittings.

sittings at the seat of Government of the Punjab: but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

**27.** Pending the directions of the Chief

Procedure pending directions of Chief Court as to place of trial of European British subject.

Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest

Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried elsewhere than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

**28.** It shall be lawful for the Chief Court to

Chief Court may order European British-subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such

European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

**29.** All trials under the twentieth Section shall be by Jury.

**30.** Whenever the Chief Court shall have

Summoning of Jurors to serve on trials.

given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall, if it shall think needful, after communication with the Commanding Officer, cause to be

Military men not exempt.

summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers sum-

moned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

**31.** If any European British subject charged as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Europeans or Americans or both Europeans and Americans.

**32.** On every trial of an European British subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

**33.** So much of the three hundred and eightieth Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

**34.** So much of the twenty-sixth Chapter of the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

**35.** When any person has been convicted of an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted

shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

**36.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

**37.** Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

**38.** The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

**39.** When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

**40.** When the person charged is committed to custody the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

**41.** In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

**42.** No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

**43.** Save as herein otherwise provided, the Chief Court may by its own Rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

**44.** The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court

and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

**45.** The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

**46.** If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

(1st)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

(2nd)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

(3rd)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law, the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

(4th)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

**47.** Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta, shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

**48.** The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under the forty-sixth Section, shall be costs in the suit.

**49.** The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply

with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Copies of records to be furnished.

**50.** Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

**51.** Whenever the Lieutenant Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleadars, Mookhtars and Revenue Agents' Act, 1865, extend

Sections 11 and 12 not to be affected on extension to Punjab of Act XX of 1865.

the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

**52.** This Act may be cited as "The Punjab Chief Court Act, 1865."

Short title.

**53.** This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Department (Legislative)





# The Gazette of India, EXTRAORDINARY.

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MONDAY, APRIL 17, 1865.

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HOME DEPARTMENT.

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*Fort William, the 17th April 1865.*

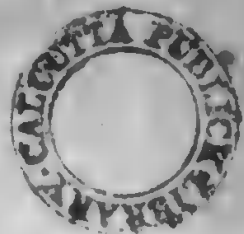
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## NOTIFICATION.

In accordance with the power vested in the Governor General in Council by the 9th Section of the Act 24 and 25 Vic., Cap. 67, to appoint the place of meeting of the Council of the Governor General, His Excellency in Council is pleased to direct that the said Council shall, until further notice, assemble at Simla, in the Provinces subject to the jurisdiction of the Lieutenant Governor of the Punjab.

A. M. MONTEATH,

*Under Secy. to the Govt. of India.*



SUPPLEMENT TO  
**The Gazette of India.**

CALCUTTA, SATURDAY, MAY 27, 1865.

**OFFICIAL PAPERS.**

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*Government of India.*

**HOME DEPARTMENT.**

**Proposed Sale of Unappropriated Waste Lands in the Sunderbuns.**

From the Hon'ble A. EDEN, Secy. to Govt. of Bengal, to Secy. to Govt. of India, Home Dept.,—(No. 559, dated 10th February 1865.)

I am directed by the Lieutenant Governor to submit, for the consideration and orders of His Excellency the Governor General in Council, the

Letter from Mr. F. Schiller and others, dated—January 1865.

Letter to Secretary, Board of Revenue, No. 398, dated 30th January 1865.

Letter from Secretary, Board of Revenue, No. 40, dated 6th February 1865.

correspondence noted on the margin, relating to a proposal made by Mr. E. Schiller and other members (English and Native) of the commercial community of Calcutta to raise a capital of at least one million Sterling, for the purchase, clearance, and cultivation of the unappropriated Waste Lands of the Sunderbuns, the extent of which they estimate at about one million

of acres, surveyed and unsurveyed.

2. The projectors propose to bring this extensive tract under cultivation not only by the usual means of settling Bengallee ryots on the land, but, they state in their application, by the introduction of settlers from China and from Madras, and other parts of the Coast of India, and by encouraging the immigration of free labor from Zanzibar.

3. The Board of Revenue, who were asked to report on this application, are of opinion that, if the Government is satisfied that the projectors can carry out the objects of their scheme within a reasonable time, it would be in accordance with

Lord Dalhousie's policy of 1853 to entertain and encourage it, but that otherwise the Government had better continue to trust to the gradual process of clearance under existing Rules.

4. Considering the highly respectable character of the gentlemen whose names are attached to the application, and the certainty that there is at present a vast amount of unemployed capital at Bombay seeking investment, the Lieutenant Governor can entertain no reasonable doubt that they are serious in their intention of bringing the Sunderbuns under cultivation; that they can readily obtain a million Sterling of capital, or more, for the purpose; and that the undertaking, if energetically and judiciously managed, will be as profitable to the projectors, and to those whose capital is invested in it, as it will be beneficial to the country in every point of view.

5. But the magnitude of the proposal, even if its acceptance did not involve a departure from the strict terms of the Waste Land Rules, would render it necessary that the matter should be laid before the Government of India, and that the Lieutenant Governor should refrain from committing the Government to any course of action without the sanction of higher authority. The Lieutenant Governor, therefore, desires me to submit the proposal with the following remarks and recommendations.

6. It appears, from a Statement and Map furnished from the Surveyor General's Office, that, in that part of the Sunderbuns alone which is attached and belongs to the district of the 24-Pergunnahs, there are at present about 1,186,560 acres of unappropriated Waste Land, of which 518,579 acres have been surveyed and lotted, and the remainder, about 667,981 acres on the sea coast, are unsurveyed. The area occupied by the streams which intersect this tract is 522 square miles.

7. The Lieutenant Governor recommends that the projectors be informed that the Government

will allow this tract to be put up to auction, under the Waste Land Rules, at an upset price of two Rupees eight annas an acre, and sold to the highest bidder at or above that price,—the condition of the Rules which prescribes that the maximum area of every lot shall be 3,000 acres, being waived, but the Rules being in all other respects observed. At this rate the upset price of the whole land area will be Rs. 29,66,400, or nearly 30 lakhs. It will probably be advisable that the sale should, after due notice, be held in Calcutta.

8. As regards the intention of the projectors to encourage the immigration of free labour from the Coast of Africa, the projectors might be informed that the Government here cannot encourage any such intention; and that Her Majesty's Government in England would probably be strongly opposed to it on grounds of imperial policy. The projectors should also be given to understand that the Government holds itself free to take such measures as may from time to time be necessary, to secure the health and protection of other laborers who may be employed on the land, and of cultivators who may settle there.

9. If the projectors are willing to apply for the tract in question, on these terms and conditions, the Lieutenant Governor would strongly recommend that the application should be complied with. He thinks that the proposal to expend a million Sterling of capital, or more, in reclaiming the jungles of the Sunderbuns, is deserving of all possible encouragement; that the deposit required by the Rules, and still more the price which the projectors would have to pay for the land before they could acquire a perfect title, would afford abundant security that every exertion would be made to bring the land into cultivation in order to secure a speedy and profitable return; that if the scheme were to fail, the public interests could in no way suffer; while, on the other hand, some considerable progress at least would be made in the clearance of the jungles; and that, if it succeeds, its success will add materially to the wealth of Bengal and improve its sanitary condition.

10. On the other hand, the Lieutenant Governor sees no hope that if the clearance of the Sunderbuns be left to the ordinary operation of the Waste Rules (even though applicants are allowed the option of taking the lands without purchase, but subject to the future payment of revenue) it will be effected for ages to come. Not a single application to purchase land there, at the minimum price of two Rupees eight annas an acre, has been received; while the grants of land subject to future payment of revenue, though they comprise a total area of 694,348 acres in the Sunderbuns of the 24 Pargunnahs, extend only to a belt of moderate breadth contiguous to the cultivated land; and it is understood that, beyond this belt, the expense of clearance, and the difficulty of getting ryots to settle, are so great as to put it beyond the power of individuals, or even of small associations, to make the attempt. It is only by undertaking operations on a large scale that the reclamation of the more distant lots, and of the unsurveyed area on the sea coast, is possible.

From Messrs. F. SCHILLER and others, to His Honor the Lieutenant Governor of Bengal,—(dated—January 1865.)

We the undersigned beg to submit to your Honor's consideration a proposition for the pur-

chase of the remaining undisposed-of Waste Lands of the Sunderbuns, aggregating about one million of acres, some of which are at present unsurveyed. We should be glad to know the terms upon which the Government of India are prepared to sell these lands in freehold.

We propose to introduce settlers from China, Madras, and other parts of the Coast of India, and also encourage the immigration of free labor from Zanzibar on as large a scale as possible; for the carrying out of which special Acts of Legislature will have to be passed.

We propose to bring those wastes under the cultivation of various crops, among which we may mention that of cotton.

For the development of this enterprise, we engage to find a capital of not less than one million Sterling. And we trust the terms offered by Government will be such as to give us encouragement to proceed at once in a spirit which will deserve to command the success of this great work, which cannot fail to prove advantageous to the country and the Government, in sanitary and pecuniary points of view.

From S. C. BAYLEY, Esq., Junior Secy. to Govt. of Bengal, to Secy. to Board of Revenue, Lower Provinces,—(No. 396, dated 30th January 1865.)

With reference to the accompanying application,\* I am directed to request  
 \* Return re- that the Board will submit an  
 requested. immediate Report as to the  
 advisability of accepting the offer of the projectors, and of making over to them the whole of the remaining unappropriated Waste Lands in the Sunderbuns, either on payment of the upset price of Rs. 2-8 an acre, or on a ninety-nine years' lease under the old Rules, as modified by recent orders. The Board will also have the goodness to state approximately what the extent of the remaining Waste Lands is, and submit a Map showing how they are situated.

From R. B. CHAPMAN, Esq., Secy. to Board of Revenue, Lower Provinces, to Secy. to Govt. of Bengal,—(No. 40, dated 6th February 1865.)

In reply to letter No. 396, dated 30th ultimo, forwarding for report an application from Mr. Schiller and other gentlemen to purchase the remaining unappropriated Waste Lands in the Sunderbuns, I am directed to state that the objects sought by these gentlemen seem to be identical with those which the Government had in view in 1853, when the new Rules for the grant of lands in the Sunderbuns were published. If an individual or a Company can satisfy Government that these objects will be carried out under any feasible project, within a reasonable time, the Government would probably, in accordance with the policy of 1853, approve of such a project, and make concessions to the projectors,—inasmuch as revenue considerations were then held to be secondary to the clearance and population of the Sunderbuns.

2. Unless the Government are satisfied that the latter object will be secured by the acceptance of the projector's scheme, of which no idea is given in their letter, the Board would not recommend any disturbance of the gradual process of clearance contemplated by existing Rules. It is now open to enterprise to embark on clearing the forest to such extent, small or large, as capital offers, and either to buy the land or to rent it.

3. Information regarding the extent of the unappropriated portion of the Sunderbuns will be submitted shortly.

4. The enclosure of your letter is returned.

P. S.—The unappropriated area is estimated at 831,504 acres, besides a belt of unsurveyed land on the sea board.

From E. C. BAYLEY, Esq., Secy. to Govt. of India, Home Dept., to Secy. to Govt. of Bengal,—(No. 1425, dated 15th February 1865.)

I am directed to acknowledge the receipt of your letter No. 559, dated the 10th instant, and its enclosure, relating to a proposal made by Mr. F. Schiller and other Members (English and Native) of the Commercial community of Calcutta, to raise a capital of at least one million Sterling for the purchase, clearance, and cultivation of unappropriated Waste Lands in the Sunderbuns, the extent of which they estimate at about one million of acres, surveyed and unsurveyed.

2. It appears from the 6th paragraph of your letter that in that part of the Sunderbuns alone which is attached and belongs to the District of the 24-Pergunnahs, there are at present about 1,186,560 acres of unappropriated Waste Land, of which 518,579 acres have been surveyed and lotted, and the remainder, about 667,981 acres on the sea coast, are unsurveyed.

3. The Governor General in Council concurs in opinion with the Lieutenant Governor that the project of Mr. Schiller and his associates is deserving of encouragement; and His Excellency in Council, accordingly, approves of the terms and conditions on which His Honor proposes to offer the tract in question to the projectors, viz.:—

1st.—That the unappropriated Waste Land in the Sunderbuns of the 24-Pergunnahs shall be put up to public auction under the Waste Land Rules in one lot, at an upset price of two Rupees eight annas an acre, and sold to the highest bidder at or above that price; the condition of the Rules which prescribes that the maximum area of every lot shall be 3,000 acres, being waived, but the Rules being in all other respects observed.

2nd.—That the sale shall, after due notice, be held in Calcutta.

3rd.—That the projectors shall be distinctly informed that the Government cannot encourage any intention to import labor from the Coast of Africa.

4th.—That the Government shall be free to take such measures as may from time to time be necessary to secure the health and protection of laborers who may be employed on the land, and of cultivators who may settle there.

From F. SCHILLER, Esq., to His Excellency the Viceroy and Governor General of India,—(dated Calcutta, 8th April 1865.)

In January last I had the honor of an interview with your Excellency regarding the sale to a Company of the unappropriated portion of the Sunderbuns, and on the 1st of February last, at the request of Mr. Bayley, the Secretary to the Government of India, in the Home Department, I placed on record the substance of this interview in the form of an application.

The object of this application was to provide for the speedy cultivation of that large tract of fertile country, stretching eastwards from the Mutlah to the Megna River, comprising not only the Sunderbuns of the 24-Pergunnahs, but also those of Jessore and Backergunge.

Shortly afterwards I had occasion to visit Bombay; and during my temporary absence from Calcutta, Mr. Kilburn undertook to make the further formal applications, and generally to work out the details of the scheme here; whilst I endeavoured to promote the financial measures of this great undertaking in Bombay.

Mr. Kilburn, in addressing the Revenue Commissioner of Nuddea, under date 22nd February A. C., upon this subject, by mistake, mentioned only the 24-Pergunnahs Sunderbuns as the land applied for.

This omission in Mr. Kilburn's application I discovered on my return to Calcutta; and to prevent mistake, I immediately wrote to Mr. Dampier, under date 17th March, stating that not only the 24-Pergunnahs, but also the Jessore and Backergunge Sunderbuns had been included in my verbal application to your Excellency, and were still intended to be applied for.

I further addressed both your Excellency and His Honor the Lieutenant Governor of Bengal upon this subject, under date the 29th March.

On receiving officially a docketed copy of a letter

No. 1274,\* dated 8th April, from the Government of Bengal to the Board of Revenue,

copy of which is annexed, I prepared jointly with some of the promoters the prospectus† of the "Sunderbuns Reclamation and Land Investment Company, Limited," copy of which is also appended.

Your Excellency will observe from this letter that not only the Sunderbuns of the 24-Pergunnahs, but also those of the Jessore Sunderbuns, are therein mentioned as two distinct blocks, and it is conceded to sell them as such waiving the Waste Land Rules which limits the area of land applied for by one person.

In order, however, that there might be no mistake in the wording of the Prospectus, I submitted it demi-officially to Mr. E. C. Bayley, and at his instance I called and laid it before the Hon'ble Mr. A. Eden; it was only after Mr. Eden had seen and approved of the Draft Prospectus that it was sent to the Press. The Prospectus was published on the 6th instant.

Late in the afternoon of the same day, I received a letter from the Government of Bengal, No. 1844 (Appendix C.), forwarding copy of letter from Government of Bengal to Board of Revenue (Appendix D.) directing the latter to withhold the modification of sales for the Jessore Sunderbuns.

Your Excellency cannot imagine my surprise at receiving such a communication, after the scheme had been published, and to an extent acted upon by the public.

Your Excellency cannot fail to observe on perusing these papers, that I acted, with others, in all good faith and upon the best authority; under these circumstances it is impossible for me, and those pledged with me, to draw back from the engagement with the public, nor do I see how the Government can ask me to do so.

So seriously would this withdrawal affect my commercial honor, so much would it impeach my integrity, and not only mine, but that of many others, that I cannot help appealing to your Excellency.

For the last twelve years I have striven hard, so far as I could to aid in the improvement and development of the country and its resources, and have succeeded in gaining the confidence of the Natives to such an extent that it is now possible to unite



them with European enterprize in such a great national undertaking as the present.

This undertaking is supported not only by the Natives of Bengal, but also by those of the other Presidencies, and it is impossible to foresee the result of the numerous complications which must necessarily arise from the many transactions and arrangements which have already been entered into by the public on the good faith of the undertaking.

Your Excellency will bear in mind that, in bringing forward the Sunderbuns Scheme, I have sought no personal advantages. I look upon it as a necessary sequence to the Port Canning Company, and every one must admit that ultimately the State will have the greatest advantage from it.

Finally, I trust your Excellency will give your earliest consideration to the subject of this letter, as you must see in what a painful position I am at present placed; and I leave it to your Excellency's sense of justice to place me once more on a proper footing towards the public.

#### APPENDIX A.

From S. C. BAYLEY, Esq., Junior Secy. to Govt. of Bengal, to Secy. to Board of Revenue,—(No. 1274, dated the 3rd April 1865.)

In continuation of docket No. 634, dated the 16th February last, forwarding copy of the orders of the Government of India, in the Home Department, No. 1425, dated the 15th idem, I was directed by the Lieutenant Governor to request that on an application being made by Mr. Schiller and others for the unappropriated lands in the Sunderbuns of the 24-Pergunnahs, and also for the unappropriated land in the Sunderbuns of Jessore, their applications may be dealt with under the Waste Land Rules, except as to limit of area; and, with this modification, that the period intervening between the issue of notice of sale and the day of sale is to be fixed at one month.

2. It will be understood that the sale, though made in general accordance with the Rules, will not be a sale under Act XXIII of 1863; and that the purchasers will not obtain a complete title under that Act. It will also be required of the purchaser, as a condition of sale, that they enter into a written agreement binding them to be responsible for, and to defend, any suits that may be brought against the Government as to rights in the land sold. This engagement should be drawn up in communication with the Government Law Officers.

3. I am desired, at the same time, to forward copy of two letters from Mr. Schiller, dated 29th and 31st ultimo, and to observe that only the Sunderbuns of the 24-Pergunnahs and of Jessore can be sold on these terms, and that these must be sold in two separate lots. The eastern boundary of the Jessore lot will be the River Hoorungotta.

4. Mr. Schiller's request that a deduction of one-fourth of the area be allowed, is inadmissible; and I am directed to state that the lands must be put up to sale at an upset price, calculated at Rs. 2-8 the acre on the whole area surveyed and estimated, exclusive of the rivers.

#### APPENDIX B.

[Here followed the Prospectus of the Soonderbuns Reclamation and Land Investment Company "Limited."]

#### APPENDIX C.

From S. C. BAYLEY, Esq., Junior Secy. to Govt. of Bengal, to F. SCHILLER, Esq.,—(No. 1344, dated 6th April 1865.)

The Lieutenant Governor desires me, in forwarding to you the accompanying copy of a letter this day addressed to the Board of Revenue, to express his regret for the misapprehension which has arisen in regard to the Sunderbun lands of Zillah Jessore.

#### APPENDIX D.

From S. C. BAYLEY, Esq., Junior Secy. to Govt. of Bengal, to Secy. to Board of Revenue,—(No. 1343, dated 6th April 1865.)

In continuation of my letter No. 1274 of 3rd instant, and of previous correspondence, the Lieutenant Governor desires me to inform the Board that as much of that letter as concerns the Sunderbun lands in Zillah Jessore must be considered cancelled. It was written under a misapprehension of the wishes of the Government of India; and as the concession which is therein made to Mr. Schiller and the gentlemen associated with him was intended by that Government to apply only to the Sunderbuns of 24-Pergunnahs, the portion of my letter extending the concession to the unappropriated land in Zillah Jessore must not be acted upon.

From A. M. MONTEATH, Esq., Under Secy. to Govt. of India, Home Dept., to Secy. to Govt. of Bengal,—(dated 10th April 1865.)

In forwarding to you the accompanying copy of a letter from Mr. Schiller, dated 8th April, I am desired to request that, with the permission of the Lieutenant Governor, you will inform Mr. Schiller that the Governor General in Council cannot consent to any departure from the decision communicated in Mr. Bayley's letter of the 15th of February, a copy of which letter was promptly furnished to Mr. Schiller and Mr. Kilburn, and in accordance with the terms of which the latter gentleman framed his formal application to the local Revenue Authorities.

3. Adverting to Mr. Schiller's statement in the letter now forwarded, that he submitted the Draft Prospectus to Mr. Bayley, the Secretary to the Government of India in the Home Department, I am desired to say that this statement, as far as it goes, is correct. But Mr. Schiller has omitted to say that Mr. Bayley objected to the inclusion of the Jessore Sunderbuns, as not having been authorized by the Government of India.

From F. SCHILLER, Esq., to Secy. to Govt. of India, Home Dept.—(dated Calcutta, 12th April 1865.)

With reference to the concessions already granted by the Government of India for the sale of that portion of the Sunderbuns known as within the 24-Pergunnahs, I have now the honor to apply for the Jessore portion of the same Waste and Forest Lands, on the same terms; and at the same time I would beg to remark that the *Sunderbuns Proper* are not confined to any particular district, the official Maps of the country having the word "Sunderbuns" written across the whole seaboard from the Hooghly to the Megna. In corroboration of this fact, I would respectfully beg to point out to His Excellency the Viceroy that the Local

(Government entertains a Sunderbuns Commissioner for the whole land connected with the Sunderbuns, and whose jurisdiction is not limited to any particular district.

In conclusion, it is needless for me to dwell upon the expedient and sound policy of reclaiming these Wastes, now only a source of pestilence and disease to the surrounding country including the capital of India itself.

From F. SCHILLER, Esq., Calcutta. to Secy. to Govt. of Bengal,—(dated 13th April 1865.)

I have the honor to acknowledge receipt of copy of letter No. 3925, dated 10th April, addressed by the Government of India to the Government of Bengal.

With reference to the last clause of the 2nd paragraph of this letter, I have to state that my recollection of the conversation with Mr. Bayley is, that he merely said he was not aware that the Jessore Soonderbuns were to be included in the Waste Lands proposed to be acquired by the Company, but that if the Government of Bengal had agreed to include them in the sale, there could be no doubt this arrangement had been made between Mr. Beadon and the Government of India, and on this point, and on this point only, he advised me to see Mr. Eden to make sure whether the Jessore Soonderbuns were really included. I accordingly called on Mr. Eden, when he confirmed the terms made use of in the Prospectus, altering a few words regarding the putting up for sale of the 24 Pergunnahs and Jessore Soonderbuns in two distinct blocks instead of in one lot.

If Mr. Bayley had "objected" to the Jessore Soonderbuns being offered for sale, I should have felt it my special duty to have drawn Mr. Eden's particular attention to such an objection. I may mention that on the occasion of these visits to the Secretaries of Government, I was accompanied by Baboo Ram Gopaul Ghose, who entirely corroborates the above statement.

The remarks in Mr. Secretary Monteath's letter, which, I presume, could only have been framed in such language owing to Mr. Bayley's absence from Calcutta, cast upon me the imputation of having withheld information and of having acted without authority. These charges I respectfully, but most emphatically, beg to deny.

From A. M. MONTEATH, Esq., Under Secy. to Govt. of India, Home Dept., to Junior Secy. to Govt. of Bengal,—(No. 416, dated Simla, 15th May 1865.)

The letter from Mr. Schiller to your address, dated the 13th April, a copy of which was forwarded with your Office endorsement No. 1591, dated the 24th idem, has been laid before the Governor General in Council; and at the same time His Excellency has become aware of a Notice issued by Messrs. Borradaile, Schiller and Co., as Secretaries to the Sunderbuns Reclamation and Land Investment Company, Limited, in which it is announced that the promoters of that scheme have decided to withdraw their Prospectus, in consequence of the general dissatisfaction caused by the withdrawal of the Jessore Sunderbuns by Government, and of the distrust created by the inability of Government to give a complete title to those portions of the Sunderbuns offered for sale.

2. In a letter to the Governor General, dated the 5th of April, Mr. Schiller defended the inclusion of the Jessore Sunderbuns in the Prospectus of

the Company, partly by reference to an interview which he had had with the Secretary to the Government of India in the Home Department. Mr. Schiller wrote—

"In order, however, that there be no mistake in the wording of the Prospectus, I submitted it demi-officially to Mr. E. C. Bayley, and at his instance I called and laid it before the Hon'ble Mr. A. Eden; it was only after Mr. Eden had seen and approved of the Draft Prospectus that it was sent to the Press."

3. In forwarding Mr. Schiller's letter to you, the Governor General in Council remarked upon this statement in the following terms:—

"Adverting to Mr. Schiller's statement in the letter now forwarded, that he submitted the Draft Prospectus to Mr. Bayley, the Secretary to the Government of India in the Home Department, I am desirous to say that this statement, as far as it goes, is correct. But Mr. Schiller has omitted to say that Mr. Bayley objected to the inclusion of the Jessore Sunderbuns as not having been authorized by the Government of India."

4. Mr. Schiller's letter dated the 13th of April, referred to at the beginning of this communication, is a reply to this remark. Mr. Schiller denies that Mr. Bayley 'objected' to the Jessore Sunderbuns being included in the Prospectus, and says that his "recollection of the conversation with Mr. Bayley is, that he merely said he was not aware that the Jessore Sunderbuns were to be included in the Waste Lands proposed to be acquired by the Company; but that if the Government of Bengal had agreed to include them in the sale, there could be no doubt this arrangement had been made between Mr. Beadon and the Government of India; and on this point, and on this point only, he advised me to see Mr. Eden, to make sure whether the Jessore Sunderbuns were really included." Mr. Schiller adds that if Mr. Bayley had objected to the Jessore Sunderbuns being included, "I should have felt it my special duty to have drawn Mr. Eden's particular attention to such an objection."

5. I am desirous, with reference to this point, to forward herewith, for the information of the Lieutenant Governor, a statement which has been submitted to the Government by Mr. Bayley, giving his recollection of the conversation which passed between himself and Mr. Schiller on the occasion in question. The Governor General in Council, I am to say, has no hesitation in accepting this statement as substantially accurate; for it was natural and most probable that Mr. Bayley, under the actual circumstances of the case, should have doubted the authority of the Government of Bengal to add the Jessore Sunderbuns, and that he should have expressed his doubt; while, on the other hand, nothing can be more improbable than that Mr. Bayley, through whom, as the organ of the Government of India, the whole correspondence, official and unofficial, had passed from first to last, should have readily and at once admitted that if the Government of Bengal had agreed to include the Jessore Sunderbuns, "there could be no doubt the arrangement had been made between Mr. Beadon and the Government of India," notwithstanding that he (Mr. Bayley) was in complete ignorance of it.

6. The Governor General in Council regrets very much that Mr. Bayley should have been so materially misunderstood by Mr. Schiller, as from that gentleman's letter of the 13th would appear to have been the case; and His Excellency in Council remarks that it is especially unfortunate that Mr. Schiller, when he afterwards went to Mr. Eden, should have omitted to say explicitly to that gentle-

man that he had come to him at Mr. Bayley's suggestion, and in consequence of a doubt expressed by Mr. Bayley as to the correctness of including the Jessore Sunderbuns; for if Mr. Schiller had done this, it would no doubt have led Mr. Eden to refer to Mr. Bayley on the subject, and the issue of the erroneous Prospectus would thus in all probability have been prevented.

7. In the original preparation of the erroneous Prospectus, the promoters of the scheme were of course warranted in including the Jessore Sunderbuns by the communication made to Mr. Schiller on the 3rd of April by the Government of Bengal; but the Governor General in Council must say frankly that, in his opinion, it is placed beyond all doubt that the mistake might have been set right before the publication of the Prospectus, had Mr. Schiller given a closer attention to what was said to him by Mr. Bayley, and had he not most unfortunately failed to convey to Mr. Eden any impression that he had come to him in consequence of a serious doubt expressed by Mr. Bayley as to the correctness of the Draft Prospectus.

8. But it is implied by Mr. Schiller in his letter to the Governor General of the 8th ultimo, that, irrespectively of the permission erroneously conveyed in the letter from the Government of Bengal of the 3rd April, he had from the first, and throughout the negotiations, expected that the Jessore Sunderbuns would be granted to the Company. The Governor General in Council, I am to state, cannot admit that Mr. Schiller had the slightest ground for entertaining any such expectation; and with reference to this point, and also to the statement, contained in the Notice withdrawing the Prospectus, as to the inability of the Government to give a complete title, His Excellency thinks that the following summary of the correspondence will show that the promoters of the Sunderbuns Reclamation Project have no just ground of complaint against the Government of India.

9. As a sequel to previous unofficial communications with the Secretary to the Government of India, and personally with His Excellency the Governor General, Mr. Schiller and other gentlemen addressed an official letter to the Government of Bengal, in which they submitted for the Lieutenant Governor's consideration "a proposition for the purchase of the remaining undisposed of Waste Lands of the Sunderbuns, aggregating about one million of acres."

10. This letter, after being referred by the Lieutenant Governor for the opinion of the Board of Revenue, was submitted on the 10th of February to the Government of India with the following remarks:—

"I am directed by the Lieutenant Governor to submit

Letter from Mr. F. Schiller and others dated—January 1865.  
Letter to Secretary, Board of Revenue, No. 395, dated 30th January 1865.  
Letter from Secretary, Board of Revenue, No. 40, dated 6th February 1865.

for the consideration and orders of His Excellency the Governor General in Council, the correspondence noted on the margin, relating to a proposal made by Mr. F. Schiller and other Members (English and Native) of the Commercial community of Calcutta to raise a capital of at least one million sterling for the purchase, clearance, and cultivation of the unappropriated Waste Lands of the Sunderbuns, the extent of which they estimate at about one million of acres surveyed and unsurveyed.

It appears from a Statement and Map furnished from the Surveyor General's office that in that part of the Sunderbuns alone which is attached and belongs to the district of the 24-Pergunnahs, there are at present about 1,186,560 acres of unappropriated Waste Land; of which

518,576 acres have been surveyed and lotted, and the remainder, about 667,981 acres on the sea coast, are unsurveyed. The area occupied by streams which intersect this tract is 522 square miles.

"The Lieutenant Governor recommends that the projectors be informed that the Government will allow this tract to be put up to auction under the Waste Land Rules, at an upset price of two Rupees eight annas an acre, and sold to the highest bidder at or above that price,—the condition of the Rules which prescribes that the maximum area of every lot shall be 3,000 acres being waived, but the rules being in all other respects observed."

11. To this communication the Government of India, on the 15th of February, replied as follows:—

"I am directed to acknowledge the receipt of your letter No. 559, dated the 10th instant, and its enclosure, relating to a proposal made by Mr. F. Schiller and other Members (English and Native) of the Commercial community of Calcutta, to raise a capital of at least one million sterling, for the purchase, clearance, and cultivation of unappropriated Waste Lands in the Sunderbuns, the extent of which they estimate at about one million of acres, surveyed and unsurveyed.

"It appears that in that part of the Sunderbuns alone which is attached and belongs to the district of the 24-Pergunnahs, there are at present about 1,186,560 acres of unappropriated Waste Land, of which 518,576 acres have been surveyed and lotted, and the remainder, about 667,981 acres on the sea coast, are unsurveyed.

"The Governor General in Council concurs in opinion with the Lieutenant Governor that the project of Mr. Schiller and his associates is deserving of encouragement; and His Excellency in Council accordingly approves of the terms and conditions on which His Honor proposes to offer the tract in question to the projectors."

12. Mr. Schiller having intermediately left Calcutta in order to proceed to Bombay, the decision of the Government of India was communicated to Mr. Kilburn, in accordance with Mr. Schiller's requests to that effect; and it is believed that a copy of the letter from the Government of India was also sent by the Bengal Government to Mr. Schiller.

13. Mr. Kilburn then,—that is say, on the 22nd of February,—made application to the Local Revenue Authorities for the grant of the Sunderbuns still undisposed of, contained in the district of the 24-Pergunnahs.

14. As this application was in exact accordance with the decision of the Government communicated to Mr. Kilburn, the Governor General in Council cannot but feel hesitation in accepting the statement contained in Mr. Schiller's letter of the 8th April that "Mr. Kilburn, in addressing the Revenue Commissioner of Nuddea, under date the 22nd February, by mistake mentioned 'only the 24-Pergunnah Sunderbuns.'" In point of facts, it must have been perfectly well known to Mr. Kilburn at that time, and afterwards to Mr. Schiller, that the Government of India had decided to grant only the Sunderbuns of the 24-Pergunnahs (a tract, it may be observed, containing a large area than that asked for by the applicants, as supposed to be comprised in the whole of the undisposed of Sunderbuns); and though the unauthorized concession, subsequently made by the Government of Bengal in the orders dated the 3rd of April, led to the inclusion of the Jessore Sunderbuns in the Draft Prospectus, yet it is evident that that mistake might have been set right two days later, and previously to the publication of the Prospectus, had Mr. Schiller simply informed Mr. Eden that the correctness of the Draft Prospectus was doubted by the Secretary to the Government of India.

15. The mistake made by the Government of Bengal in the orders of April the 3rd is no doubt

greatly to be regretted; and the Governor General in Council is constrained to state his opinion that the Lieutenant Governor should not have acted in so important a matter without a clear and definite authority from the Government of India. But at the same time His Excellency in Council must add that, considering the frequent communications which had from the first been held by Mr. Schiller with the Secretary to the Government of India, it behoved Mr. Schiller to have attached more weight than he did to the objection started by Mr. Bayley, when the Draft Prospectus was shown to him to the inclusion of the Jessore Sunderbuns. And it is, at all events, beyond dispute that if, previously to the unauthorized order of the Bengal Government, Mr. Schiller had led the promoters of the project, whether in Bombay or in Calcutta, to believe that the Jessore Sunderbuns as well as the 24-Pergunnah Sunderbuns were to be sold, he did so on his own responsibility, and without warrant of any authority whatever, either from the Government of India or from the Government of Bengal.

16. With respect to the alleged injurious effect upon the scheme from "the inability of Government to give a complete title," I am to remind the Lieutenant Governor that after Mr. Schiller's return to Calcutta, that gentleman and Mr. Kilburn wrote to the Governor General on the 21st of March, urging that the three months' Notice previously to the sale of the property required by the Waste Lands' Act should be dispensed with. "The applications for shares in this scheme" (they wrote) "are very numerous; but they must of course be considered as contingent upon the final sale of the property."

"As a very large amount of money is thus kept in suspense, the applicants are urgent in their demand that the time prior to sale may be shortened; and we, therefore, venture to ask the Government to reconsider their determination, and reduce the interval to one month. We are further encouraged to make this request by the fact that the principal Natives of this country are evidently prepared to enter with spirit upon the scheme, and we expect to see that it will be the means of bringing into circulation large sums of money which otherwise may remain hoarded."

"It is likewise of great importance to initiate the arrangements as soon as possible, and thus to be prepared for the necessary operations during the coming cold season."

17. The Governor General in Council, on carefully considering the circumstances of the case, came to the conclusion that this application might properly be complied with, provided that the Company was willing to accept the title of the Government as it stood, instead of securing a fresh title by the process of the Waste Lands' Act (XXIII of 1863). It was explained to Mr. Schiller in an unofficial letter from the Secretary to the Government of India that, in the case of the Sunderbuns, the title of the Government was in fact a perfectly secure one, and that the risk and responsibility of the Company in accepting the title as it stood would be nominal. Mr. Schiller replied to this communication from Mr. Bayley in the following terms:—"I am much obliged for the information conveyed in your letter, which is very satisfactory. We can now bring out the Company and relieve the public mind."

18. In the face of this correspondence, and seeing that the existing title of Government is to

all intents and purposes a complete title, and considering also that it was entirely optional with the projectors either to accept the title of Government as it stood, or to secure a new and statutory title by following the course prescribed by the Waste Lands' Act, it appears to the Governor General in Council that the failure to proceed with the project is not reasonably or justly attributable to "the inability of Government to give a complete title."

#### MEMORANDUM.

On Tuesday evening, the 4th April, I received a note from Mr. Schiller, asking if I could see Baboo Ramgopal Ghose and himself for a few minutes the following morning, before I went to Council. I replied that I would do so.

Mr. Schiller and Baboo Ramgopal Ghose accordingly came a little after 10 A. M., and said they wished to show me part of their Prospectus. This was the paragraph which is now the second in their Prospectus. It was copied out separately, and, as shown to me, ran thus:—"The Government of India have consented to sell the whole of the unappropriated lands in the Sunderbuns in one lot," or words precisely to the same effect.

I said at once that this was all wrong, and that only the land in the Sunderbuns of the 24-Pergunnahs was to be sold. Mr. Schiller replied that the Government of Bengal had informed them otherwise. I said that there certainly must be some mistake for the Sunderbuns of Backergunge, for example, had been nearly all sold already, and the rest could hardly, in fairness to present settlers, be sold to the Company.

Mr. Schiller replied that the Backergunge Sunderbuns were virtually nothing; but that as to Jessore, "they had it in black and white from Mr. Beadon."

I repeated that there must be a mistake, for that all the correspondence, both official and demi-official, had passed through myself, and that no authority whatever had been given except for the sale of the Sunderbuns of the 24-Pergunnahs; this I said more than once; and Mr. Schiller and Baboo Ramgopal Ghose both repeated three or four times that "they had it in black and white from Mr. Beadon that the Government of India had consented to sell the Jessore Sunderbuns."

To this I said I felt almost certain there must be some mistake; that it was barely possible, indeed, that the Lieutenant Governor might have had some direct communication from the Government of India, but I thought it most unlikely that this was so, for all the correspondence had passed through me up to a very recent date indeed, and I ought to have known if anything further had been said or done; that the only thing which made me think it even barely possible, was the mention made by Sir C. Trevelyan in his Budget speech of the proceeds of the Jessore Sunderbuns; but still I felt almost sure that no such authority had been given, and begged that, before issuing the Prospectus, they would make the matter perfectly certain, by personally communicating with Mr. Beadon; this they said they would do.

They then asked if the Prospectus was otherwise right; I said "yes," save that the official orders to Bengal were to sell the Sunderbuns of the 24-Pergunnahs only in one lot; and as these had not been cancelled or altered, the Jessore Sunderbuns, if sold at all, must be sold separately.



As they were going away (the interview lasted only a very few minutes), Mr. Schiller turned round to me, and saying that they had but little time, as they wished to get out the Prospectus next morning, and that it was a long hot drive to Belvidere, asked me if it would not do equally well if they saw Mr. Eden. I replied I had no doubt that if the Lieutenant Governor had received any authority to sell the Jessore Sunderbans, Mr. Eden knew of it, and what it was. Mr. Schiller then asked me to send a man with him to point out Mr. Eden's house, but Baboo Ramgopal Ghose said that he knew it.

That afternoon I repeated the substance of the interview in Council.

E. C. BAYLEY,

Secy. to the Govt. of India.

## PUBLIC WORKS DEPARTMENT.

### Defects of our Railways.

From Secy. to Govt. of India, P. W. Dept., to Secretaries to Govts. of Bengal, North-Western Provinces, and Punjab, and to Chief Commr., Central Provinces,—(dated 25th February 1864.)

I am directed to forward for information, as indicating from a native point of view some of the defects of our Railways, a copy of an anonymous petition which has been received in this Office.

#### Translation of an anonymous Petition.

For the comfort and convenience of the people travelling on the old road, Seraces with Purao or plains attached to them, have been established at every stage; wells constructed, trees grown on the sides of the road; and chowkees for the protection of the travellers appointed, through the kind attention of the Government. Now, however, since the construction of Railways in this country, the people, with a view to reach speedily the places of their destination, travel by Rail, and have therefore deserted the old road which possesses all the advantages described above. Travelling by Rail subjects the people to the following three kinds of inconvenience, viz. :—

1st.—That there is no well close to the Station from which the travellers can drink water.

2ndly.—That there is no Serace adjacent to the Station for the travellers to rest at night.

3rdly.—That there is no Purao or plain close to the Station where travellers may cook their meals.

I therefore suggest that the same improvements may be made in the Railway Stations as have been done in the old roads for the comforts of the people.

The troubles and inconveniences to which the natives travelling by Rail are subject, may be removed in two ways—

1st.—The Railway Authorities should charge half an anna on every Rupee above the usual fare, and from this income they should have a well constructed at every third Station, establish at the distance of every 200 miles a Serace, and secure close to it a plain of 2 acres with some shady trees thereon.

2nd.—A notice should be issued to the effect that those who may from virtue's sake be inclined to construct wells, or establish Seraces by the Railway Stations, shall apply to the Railway Authorities, who will pay every attention to such applications.

Memo.—From Under Secy. to Govt. of Punjab, P. W. Dept., Railway Branch, to Secy. to Govt. of India, P. W. Dept.,—(dated Lahore, 17th April 1865.)

With reference to Secretary's letter No. 1548, dated 24th ultimo, forwarding for the information of this Government copy of an anonymous petition that had been received in the Secretary's Office, and indicating from a native point of view some of the defects and inconveniences experienced in Railway travelling in India, the undersigned is directed to transmit copy of a Circular which, at the suggestion the Hon'ble the Lieutenant Governor, has been prepared by the Financial Commissioner, and this day approved for issue to the Commissioners of the several Divisions traversed by both the Punjab and Delhi Railways.

2. The Lieutenant Governor trusts it will have the desired effect in due time; but it is to be observed that previously had the erection of a large Serai, &c., been commenced close to the Raiwind Station at the 26th mile on the line to Mooltan, where a feeder road constructed from Ferozepore and Kusoor joins it, the same being constructed by a public-spirited native resident of Kusoor, to whom the Government has granted a piece of land rent free for the purpose.

Circular,—From the Financial Commr. for the Punjab, to Commrs. of Delhi, Umballa, Jullundhur, Umritsur, Lahore, Mooltan.

It has been brought to the notice of His Honor the Lieutenant Governor that natives travelling by Railways are put to inconvenience by the want generally in the vicinity of the intermediate Stations of wells for drinking water, and at the principal Stations by the want of Seracs to rest in at night, and encamping grounds where they can cook their food. It is true that in the larger towns there is no want of Seracs, but they are often not in convenient proximity to the Railway Station.

2. Apart from the efforts which may be made to meet these wants by the direct action of the Government or of Local Committees, it has occurred to His Honor the Lieutenant Governor that public-spirited individuals might be disposed to aid in promoting the comfort and conveniences of the natives who travel by Railway if the rules now in force for encouraging the formation of wells and groves on lines of road were now extended also to lines of Railway. I request, therefore, that the influence of yourself and your district officers may be exerted in securing the co-operation of public-spirited individuals in this matter, and that you will notify to them that the Government will be prepared to assist with small grants of land free of demand, all persons who will construct wells and groves, Seracs, Dhurumsallas, and other conveniences for native travellers at the several Stations on lines of Railways in this province.

A list of Railway Stations on the line from Delhi to Umritsur and from Umritsur to Mooltan is hereto appended. A report should be furnished at the end of twelve months, showing how far individuals have interested themselves in the matter.

Plate-laying in the Punjab Railway.

Progress Report of Plate-laying for the month ending February 1865.

	Miles.	Chains.		Plate-laying required.	PREVIOUSLY		THIS MONTH		TOTAL		REMARKS.
					Linked in.	Completed.	Linked in.	Completed.	Linked in.	Completed.	
			DISTRICT NO. 1.	M. C.							
From	...	72	Main Line at Lahore Station	30 73	30 73 0	30 73 0	.....	.....	30 73 0	30 73 0	
To	31	65	Unrishtur Station ... ..								
			DISTRICT NO. 2.								
From	...	72	Main Line at Lahore Station	53 8	53 8 0	53 8 0	.....	.....	53 8 0	53 8 0	
To	54	...	" towards Mooltan								
			DISTRICT NO. 3.								
From	54	...	Main Line ... ..	56 0	56 0 0	0 4 0	.....	.....	56 0 0	0 4 0	
To	110	...	" towards Mooltan								
			DISTRICT NO. 4.								
From	110	...	Main Line .. ..	56 0	56 0 0	42 0 0	.....	2 0 0	56 0 0	44 0 0	
To	166	...	" towards Mooltan								
			DISTRICT NO. 5.								
From	166	...	Main Line ... ..	54 30	54 50 0	50 30 0	.....	.....	54 50 0	50 30 0	
To	220	30	Sher Shah Terminus, 11½ miles beyond Mooltan Station...								
Total for Main Line ...				250 31	250 51 0	176 35 0	.....	2 0 0	250 51 0	178 35 0	
Station Yards and Sidings ...				30 67	15 75 97	13 19 97	0 40 0	.....	16 35 97	13 19 97	
Total ...				281 18	266 46 97	189 54 97	0 40 0	2 0 0	267 6 97	191 54 97	

LAHORE,  
6th April 1865.

(Signed) J. HARRISON,  
Chief Engineer.

Government of Madras.

Chinchona Operations in the Neilgherries.

Report on the Number, Distribution, and Condition of Chinchona plants on the Neilgherries on the 31st March 1865.

Species.	Botanical names.	Commercial names.	No. of plants.	Value per lb. of Dry Bark in the London Market.				REMARKS.
				s.	d.	s.	d.	
1	C. Succirubra ...	Red Bark ... ..	1,61,273	2	6	to	8 9	The* number of plants permanently planted out in the plantations remain the same as last month, namely, 1,65,351.
2	C. Calisaya ...	Yellow Bark .. ..	2,711	2	10	to	7 0	
3	C. Officinalis	Original Loxa Bark.	3,483	2	10	to	7 0	
	Var Condaménia (C. Uritusingu)							
4	Ditto	Select Crown Bark	3,56,072	2	10	to	7 0	
	Var Bonplandiana (C. Chahuanguera)							
5	C. Crespilla ...	Fine Crown Bark ...	2,579	2	10	to	6 0	The increase by propagation is 16,900, being 3,544 plants under the average of the last six months, making the total number of plants at the end of the month 5,55,922.
6	C. Lancifolia ...	Pitayo Bark ...	39	1	8	to	2 10	
7	C. Nitida ...	Genuine Grey Bark	2,756	1	8	to	2 9	
8	C. Species without name ...	Fine Grey Bark ...	8,500	1	8	to	2 10	
9	C. Micrantha ...	Grey Bark ...	14,666	1	8	to	2 9	
10	C. Peruviana ...	Finest Grey Bark...	3,389	1	8	to	2 10	
11	C. Pahudiana ...	Unknown ...	425	Worthless.				
Total number of plants...			5,55,922					

TABLE II.

Memorandum of the growth of eleven plants of *C. Succirubra*, planted on the 2nd Denison Plantation at Neddivuttum, on the 30th August 1862.

No. of plants.	Height in inches when planted on the 30th August 1862.	Height in inches on the 28th Feb. 1865.	Height in inches on the 31st March 1865.	Growth in inches during Mar. 1865.	By whom planted.
1	23	114	116	1	His Excellency Sir W. Denison.
2	16½	102½	102½	½	
3	19	106	106	0	
4	15	99½	100	½	
5	27	118	118	0	
6	20	91	91½	½	
7	20	109	109	0	J. W. Brecks, Esq.
8	18	110	110½	½	Dr. Sanderson.
9	20	113	114	1	J. D. Sim, Esq.
10	20	114½	114½	0	Lieutenant McLeod.
11	18	99	99½	½	P. Grant, Esq.
12	...	55	55	0	Plant cut down for bark.

Table II. exhibits the growth of eleven plants of *Chinchona Succirubra* planted out by His Excellency the Governor and other gentlemen at Neddivuttum on the 30th August 1862. The average growth of these plants during the month is  $\frac{4}{11}$ ths of an inch, being  $\frac{5}{11}$ ths of an inch under the growth of last month.

One of the two plants cut down on the 20th of March 1863 for the bark submitted to Mr. Howard for analysis has made strong shoots of 55 inches in height, but has not increased in height during the current month.

TABLE III.

Showing the height of twelve plants of *C. Officinalis* planted on the Dodabetta Plantation, at Ootacamund, on the 30th September 1863.

No. of plants.	Height in inches when planted on the 30th September 1863.	Height in inches on the 28th Feb. 1865.	Height in inches on the 31st March 1865.	Growth in inches during March 1865.
1	19	72	74	2
2	14½	64	68	4
3	28	76	78½	2½
4	22	79	80½	1½
5	21½	75	76½	1½
6	28	82½	86	3½
7	22½	73	76	3
8	21½	72	74	2
9	21½	80	81	1
10	19½	73	74	1
11	24	76	78	2
12	24	77	79	2

The twelve plants of *C. Officinalis* (a shrubby species) on the Dodabetta Plantation give an average growth of  $2\frac{1}{4}$ th inches, or 1 inch above the growth of last month.

The number of plants issued to the public during this month is 580, making the total number of plants distributed 53,437.

OOTACAMUND,  
7th April 1865.

(Signed) W. G. McIVOR,  
Supdt., Govt. Chinchona Plantations.



# The Gazette of India.

Published by Authority.

CALCUTTA, SATURDAY, APRIL 22, 1865.

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 7th April 1865, and is hereby promulgated for general information:—

## ACT No. XIV OF 1865.

*An Act to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces.*

Whereas it is expedient to define the jurisdiction of the Courts of Civil Judicature in the Central Provinces: It is enacted as follows:—

**1.** This Act shall be called  
Short title. "The Central Provinces Courts' Act, 1865."

**2.** In this Act—

Interpretation Clause. "Assistant Commissioner" includes Extra Assistant Commissioner.

**3.** For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court.

The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

**4.** There shall be eight grades of Courts in the Central Provinces, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed, namely:—

- (1). The Court of the Tahsildar of the second class.
- (2). The Court of the Tahsildar of the first class.
- (3). The Court of the Assistant Commissioner of the third class.
- (4). The Court of the Assistant Commissioner of the second class.
- (5). The Court of the Assistant Commissioner of the first class.

- (6). The Court of the Deputy Commissioner.
- (7). The Court of the Commissioner.
- (8). The Court of the Judicial Commissioner.

**5.** Subject to any orders that may from time to time be issued by the Local Government, the Chief Commissioner may declare grade to which a Tahsildar or Assistant Commissioner belongs. Assistant Commissioner shall belong.

**6.** The Chief Commissioner may, with the sanction of the Local Government, invest any Naib Tahsildar with power to try and determine suits for money due, whether on bond or other contract, or for rent, or for personal property or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of fifty Rupees, and to prescribe the local limits within which the Naib Tahsildar so invested shall exercise such power.

**7.** The Court of the Tahsildar of the second class shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

**8.** The Court of the Tahsildar of the first class shall have power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

**9.** The Court of the Assistant Commissioner of the third class shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

**10.** The Court of the Assistant Commissioner of the second class shall have power to try and determine suits of every description not exceeding one thousand Rupees in value or amount.



**11.** The Court of the Assistant Commissioner of the first class shall have power to try and determine suits of every description not exceeding five thousand Rupees in value or amount.

Jurisdiction of Court of Assistant Commissioner of the first class.

**12.** The Court of the Deputy Commissioner shall have power to try and determine suits of every description and of any amount, and to hear appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the first, second, third, and fourth grades respectively and of Naib Tahsildars invested as aforesaid.

Jurisdiction of Court of Deputy Commissioner.

**13.** The Court of the Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Courts of the fifth and sixth grades.

Jurisdiction of Court of Commissioner.

**14.** The Court of the Judicial Commissioner shall have power to hear and determine appeals from the original decisions in suits and (where an appeal is allowed by the Code of Civil Procedure) from the orders of the Commissioners, and also applications for a special appeal as provided in the said Code from the decisions passed in regular appeal by the Deputy Commissioners and by the Commissioners of Divisions.

Jurisdiction of Court of Judicial Commissioner.

**15.** The memorandum of regular appeal prepared in the form, and containing the particulars, mentioned in the Code of Civil Procedure, shall be presented in the Court empowered to hear the appeal within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of such Court for not having presented the memorandum of appeal within such period, that is to say, thirty days if the appeal lie to the Deputy Commissioner; six weeks if the appeal lie to the Commissioner of a Division, and ninety days if the appeal lie to the Judicial Commissioner. The period shall be reckoned from and exclusive of the day on which the decision or order appealed against was passed, and also exclusive of such time as may be requisite for obtaining a copy of the decree or order from which the appeal is made. Applications for special appeal shall be presented in the Court of the Judicial Commissioner within the period hereinbefore fixed for regular appeals.

**16.** Whenever the state of the public business requires it, the Local Government may invest any one with powers of Commissioner, or of Deputy Commissioner, or of both.

**17.** Every suit shall be instituted in the Court in which suit shall be instituted. Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes

shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

**18.** Except when otherwise provided in any Regulation or Act for the time being in force, an appeal shall lie from the decisions of the Courts of original jurisdiction to the Courts authorized by this Act to hear appeals from the decisions of those Courts.

Appeal to lie from all decisions except when expressly prohibited.

Act to hear appeals from the decisions of those Courts.

**19.** The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit in which the amount or value of the claim shall exceed its proper jurisdiction.

Deputy Commissioner may distribute business among subordinate Courts.

**20.** The Commissioner of the Division or the Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him, and try such suit himself or refer it for trial to any other such subordinate Court and competent in respect of the value or amount of the suit to try the same. The Commissioner of the Division may also withdraw any appeal instituted in the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

Transfer of suits from subordinate Court to Commissioner's or Deputy Commissioner's Court.

**21.** The Judicial Commissioner may order that the cognizance of any suit or appeal which shall be instituted in any Court subordinate to him not being a Court of Small Causes shall be transferred to any other such subordinate Court, competent in respect of the value of the subject-matter of the suit or appeal to try the same.

Judicial Commissioner may transfer suits from one subordinate Court to another.

**22.** If the suit be for any immovable property situate within the limits of different District Courts within the same Division, the suit may be brought in any Court otherwise competent to try it within the jurisdiction of which any portion of such property is situate, but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the suit; and such Commissioner after hearing the objections, if any, of the defendant, may give such authority. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

Suits for immovable property situate in different Districts.

**23.** If the District Courts within the limits of whose jurisdiction the immovable property is situate are subordinate to different Commissioners, the application shall be submitted to the Commissioner of the Division to whom the

Suits for immovable property situate in Districts subject to different Commissioners.

District Court in which the suit is brought is subordinate, and the Commissioner to whom such application is made may, after hearing the objections, if any, of the defendant, give authority to proceed with the suit.

**24.** This Act shall commence and come into operation on the first day of May 1865.

**25.** The Governor General of India in Council may, by an order to be published in the Official Gazette, extend the provisions of this Act to the Province of Oude, but not so as in any way to affect the provisions of Act XVI of 1863, (to remove doubts as to the jurisdiction of the Revenue Courts in the Province of Oude in suits relating to land, and to enlarge the period of limitation in such suits). On and after such extension, the Civil Judge of Lucknow shall be considered a Deputy Commissioner, and the Assistant Judge of Lucknow an Assistant of the third class, within the meaning of this Act. Appeals from the decisions and orders of the Civil Judge of Lucknow, when allowed by the Code of Civil Procedure or any other law, shall lie as at present to the Court of the Judicial Commissioner.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 7th April 1865, and is hereby promulgated for general information :—

#### Act No. XV of 1865.

*An Act to define and amend the law relating to Marriage and Divorce among the Parsees.*

Whereas the Parsee Community has represented the necessity of defining and amending the law relating to Marriage and Divorce among Parsees; And whereas it is expedient that such law should be made conformable to the customs of the said community; It is enacted as follows :—

#### I.—Preliminary.

Short title.	<b>1.</b> This Act may be cited as "The Parsee Marriage and Divorce Act, 1865."
Interpretation clause.	<b>2.</b> In this Act, unless there be something repugnant in the subject or context—
Words in the Number.	singular number include the plural, and words in the plural number include the singular.
"Priest."	"Priest" means a Parsee Priest and includes Dastūr and Mobed.

"Marriage"	means a marriage between Parsees whether contracted before or after the commencement of this Act; and "Husband" and "Wife" respectively mean a Parsee husband and a Parsee wife.
"Marriage."	
"Husband" and "Wife."	
"Section."	"Section" means a Section of this Act.
"Chief Justice."	"Chief Justice" includes Senior Judge.
"Court."	"Court" means a Court constituted under this Act.
"British India"	means the Territories which are or shall be vested in Her Majesty or her successors by the Statute 21 and 22 Vic., cap. 106, entitled "An Act for the better Government of India."

And, in any part of British India in which this Act operates, "Local Government" means the person authorized to administer Executive Government in such part of India, or the Chief Executive Officer of such part when it is under the immediate administration of the Governor General of India in Council, and when such Officer shall be authorized to exercise the powers vested by this Act in a Local Government; and "High Court" means the highest Civil Court of appeal in such part.

#### II.—Of Marriages between Parsees.

**3.** No marriage contracted after the commencement of this Act shall be valid, if the contracting parties are related to each other in any of the degrees of consanguinity or affinity prohibited among Parsees and set forth in a Table which the Governor General of India in Council shall, after due enquiry, publish in the *Gazette of India*, and unless such marriage shall be solemnized according to the Parsee form or ceremony called "Asirvād" by a Parsee Priest in the presence of two Parsee witnesses independently of such officiating Priest; and unless, in the case of any Parsee who shall not have completed the age of twenty-one years, the consent of his or her father or guardian shall have been previously given to such marriage.

**4.** No Parsee shall, after the commencement of this Act, contract any marriage in the life-time of his or her wife or husband, except after his or her lawful divorce from such wife or husband, by sentence of a Court as hereinafter provided; and every marriage contracted contrary to the provisions of this Section shall be void.

**5.** Every Parsee who shall, after the commencement of this Act and during the life-time of his or her wife or husband, contract any marriage without having been lawfully divorced.

ed from such wife or husband, shall be subject to the penalties provided in Sections four hundred and ninety-four and four hundred and ninety-five of the Indian Penal Code for the offence of marrying again during the life-time of a husband or wife.

**6.** Every marriage contracted after the commencement of this Act shall, immediately on the solemnization thereof, be certified by the officiating Priest in the form contained in the Schedule to this Act. The certificate shall be signed by the said Priest, the contracting parties, or their fathers or guardians when they shall not have completed the age of twenty-one years, and two witnesses present at the marriage; and the said Priest shall thereupon send such certificate together with a fee of two Rupees to be paid by the husband to the Registrar of the place at which such marriage is solemnized. The Registrar on receipt of the certificate and fee shall enter the certificate in a register to be kept by him for that purpose, and shall be entitled to retain the fee.

**7.** For the purposes of this Act a Registrar shall be appointed, who may be the Registrar appointed under Act XVI of 1864 (to provide for the Registration of Assurances). Within the local limits of the ordinary original Civil jurisdiction of a High Court, the Registrar shall be appointed by the Chief Justice of such Court, and, without such limits, by the Local Government. Every Registrar so appointed may be removed by the Chief Justice or Local Government appointing him.

**8.** The Register of Marriages mentioned in the sixth Section shall, at all reasonable times, be open for inspection; and certified extracts therefrom shall, on application, be given by the Registrar on payment to him by the applicant of two Rupees for each such extract. Every such register shall be evidence of the truth of the statements therein contained.

**9.** Any Priest knowingly and wilfully solemnizing any marriage contrary to and in violation of the fourth Section shall, on conviction thereof, be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two hundred Rupees, or with both.

**10.** Any Priest neglecting to comply with any of the requisitions affecting him contained in the sixth Section shall, on conviction thereof, be punished for every such offence with simple imprisonment for a term which may extend to three months, or with fine which may extend to one hundred Rupees, or with both.

**11.** Every other person required by the sixth Section to subscribe or attest the said certificate who shall wilfully omit or neglect so to do, shall, on conviction thereof, be punished for every such offence with a fine not exceeding one hundred Rupees.

**12.** Every person making, or signing, or attesting any such certificate containing a statement which is false, and which he either

knows or believes to be false, or does not know to be true, shall be deemed to be guilty of the offence of forgery as defined in the Indian Penal Code, and shall be liable, on conviction thereof, to the penalties provided in Section four hundred and sixty-six of the said Code.

**13.** Any Registrar failing to enter the said certificate pursuant to the sixth Section shall be punished with simple imprisonment for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

**14.** Any person secretly, destroying, or dishonestly or fraudulently altering the said register in any part thereof, shall be punished with imprisonment of either description as defined in the Indian Penal Code for a term which may extend to two years, or, if he be a Registrar, for a term which may extend to five years, and shall also be liable to fine which may extend to five hundred Rupees.

### III.—Of Parsee Matrimonial Courts.

**15.** For the purposes of hearing suits under this Act, a special Court shall be constituted in each of the Presidency Towns of Calcutta, Madras and Bombay, and in such other places in the Territories of the several local Governments as such Governments respectively shall think fit.

**16.** The Court so constituted in each of the Presidency Towns shall be entitled the Parsee Chief Matrimonial Court of Calcutta, Madras or Bombay, as the case may be. The local limits of the jurisdiction of a Parsee Chief Matrimonial Court shall be coextensive with the local limits of the ordinary original Civil jurisdiction of the High Court. The Chief Justice of the High Court, or such other Judge of the same Court as the Chief Justice shall from time to time appoint, shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by eleven Delegates.

**17.** Every Court so constituted at a place other than a Presidency Town shall be entitled the Parsee District Matrimonial Court of such place. Subject to the provisions contained in the next following Section, the local limits of the jurisdiction of such Court shall be coextensive with the limits of the District in which it is held. The Judge of the principal Court of original Civil jurisdiction at such place shall be the Judge of such Matrimonial Court, and, in the trial of cases under this Act, he shall be aided by seven Delegates.

**18.** The Local Government may from time to time alter the local limits of the jurisdiction of any Parsee District Matrimonial Court, and may include within such limits any number of Districts under its government.

**19.** Any District which the Local Government, on account of the fewness of the Parsee inhabitants shall deem it inexpedient to include within the jurisdiction of any District Matrimonial Court, shall be included within the jurisdiction of the Parsee Chief Matrimonial Court for the Territories under such Local Government where there is such Court.

**20.** A seal shall be made for every Court constituted under this Act, and all decrees and orders and copies of decrees and orders of such Court, shall be sealed with such seal which shall be kept in the custody of the presiding Judge.

**21.** The Local Governments shall, in the Presidency Towns and Districts subject to their respective Governments, respectively appoint persons to be Delegates to aid in the adjudication of cases arising under this Act. The persons so appointed shall be Parsees: their names shall be published in the Official Gazette; and their number shall, within the local limits of the ordinary original Civil jurisdiction of a High Court, be not more than thirty, and in Districts beyond such limits not more than twenty.

**22.** The appointment of a Delegate shall be for life. But whenever a Delegate shall die, or be desirous of relinquishing his office, or refuse or become incapable or unfit to act, or be convicted of an offence under the Indian Penal Code or other law for the time being in force, then and so often the local Government may appoint any other person being a Parsee to be a Delegate in his stead; and the name of the person so appointed shall be published in the Official Gazette.

**23.** All Delegates appointed under this Act shall be considered to be public servants within the meaning of the Indian Penal Code.

**24.** The Delegates selected under the sixteenth and seventeenth Sections to aid in the adjudication of suits under this Act shall be taken under the orders of the presiding Judge of the Court in due rotation from the Delegates appointed by the Local Government under the twenty-first Section.

**25.** All Advocates, Vakeels, and Attornies-at-law entitled to practise in a High Court shall be entitled to practise in any of the Courts constituted under this Act; and all Vakeels entitled to practise in a District Court shall be entitled to practise in any District Matrimonial Court constituted under this Act.

**26.** All suits instituted under this Act shall be brought in the Court within the limits of whose jurisdiction the defendant resides at

the time of the institution of the suit. When

When defendant the defendant shall at such time have left British India, such suit shall be brought in the Court at the place where the plaintiff and defendant last resided together.

#### IV.—Of Matrimonial Suits.

##### (a). For a Decree of Nullity.

**27.** If a Parsee at the time of his or her marriage was a lunatic or of habitually unsound mind, such marriage may at the instance of his or her wife or husband be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues. Provided that no suit shall be brought under this Section if the plaintiff shall at the time of the marriage have known that the respondent was a lunatic or of habitually unsound mind.

**28.** In any case in which consummation of the marriage is from natural causes impossible, such marriage may, at the instance of either party thereto, be declared to be null and void.

##### (b). For a Decree of Dissolution in case of Absence.

**29.** If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved.

##### (c). For Divorce or Judicial Separation.

**30.** Any husband may sue that his marriage may be dissolved, and a divorce granted, on the ground that his wife has, since the celebration thereof, been guilty of adultery; and any wife may sue that her marriage may be dissolved, and a divorce granted, on the ground that, since the celebration thereof, her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence. In every such suit for divorce on the ground of adultery the plaintiff shall, unless the Court shall otherwise order, make the person with whom the adultery is alleged to have been committed a co-defendant, and in any such suit by the husband the Court may order the adulterer to pay the whole or any part of the costs of the proceedings.

**31.** If a husband treat his wife with such cruelty or personal violence as to render it in the judgment of the Court improper to compel her



to live with him, or if his conduct afford her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation.

**32.** In a suit for divorce or judicial separation under this Act, if the Court be satisfied of the truth of the allegations contained in the plaint, and that the offence therein set forth has not been condoned, and that the husband and wife are not colluding together, and that the plaintiff has not connived at, or been accessory to the said offence, and that there has been no unnecessary or improper delay in instituting the suit, and that there is no other legal ground why relief should not be granted, then and in such case, but not otherwise, the Court shall decree a divorce or judicial separation accordingly.

**33.** In any suit under this Act for divorce or judicial separation, if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court on the application of the wife, may order the husband to pay her monthly or weekly during the suit such sum not exceeding one-fifth of the husband's net income, as the Court, considering the circumstances of the parties, shall think reasonable.

**34.** The Court may, if it shall think fit on any decree for divorce or judicial separation, order that the husband shall, to the satisfaction of the Court, secure to the wife such gross sum, or such monthly or periodical payments of money for a term not exceeding her life as, having regard to her own property (if any), her husband's ability and the conduct of the parties, shall be deemed just, and for that purpose may require a proper instrument to be executed by all necessary parties and suspend the pronouncing of its decree until such instrument shall have been duly executed. In case any such order shall not be obeyed by her husband, he shall be liable to damages at her suit, and further to be sued by any person supplying her with necessaries, during the time of such disobedience, for the price or value of such necessaries.

**35.** In all cases in which the Court shall make any decree or order for alimony, it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do.

(d). *For Restitution of Conjugal Rights.*

**36.** Where a husband shall have deserted or without lawful cause ceased to cohabit with his wife, or where a wife shall have deserted or without lawful cause

ceased to cohabit with her husband, the party so deserted or with whom cohabitation shall have so ceased, may sue for the restitution of his or her conjugal rights, and the Court, if satisfied of the truth of the allegations contained in the plaint and that there is no just ground why relief should not be granted, may proceed to decree such restitution of conjugal rights accordingly. If such decree shall not be obeyed by the party against whom it is passed, he or she shall be liable to be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred rupees, or with both.

**37.** Notwithstanding anything hereinbefore contained, no suit shall be brought in any Court to enforce any marriage between Parsees or any contract connected with or arising out of any such marriage, if, at date of the institution of the suit, the husband shall not have completed the age of sixteen years, or the wife shall not have completed the age of fourteen years.

**38.** In every suit preferred under this Act, the case shall be tried with closed doors should such be the wish of either of the parties.

**39.** Every plaint and petition of appeal preferred under this Act shall bear a stamp of thirty-two Rupees, and all other instruments and writings of the kind specified as requiring a stamp in Schedule B to Act No. X of 1862 (*to consolidate and amend the Law relating to Stamp Duties*) and exhibited in a suit under this Act shall be stamped in accordance with the provisions of the said Act No. X of 1862.

**40.** The provisions of the Code of Civil Procedure shall, so far as the same may be applicable, apply to suits instituted under this Act.

**41.** In suits under this Act all questions of law and procedure shall be determined by the presiding Judge; but the decision on the facts shall be the decision of the majority of the Delegates before whom the case is tried.

**42.** An appeal shall lie to the High Court from the decision of any Court established under this Act, whether a Chief Matrimonial Court or a District Matrimonial Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground: Provided that such appeal be instituted within three calendar months after the decision appealed from shall have been pronounced.

**43.** When the time hereby limited for appealing against any decree dissolving a marriage shall have expired and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal any marriage shall be declared to be dissolved, but not sooner, it shall be lawful for the respective parties thereto to marry again, as if the prior marriage had been dissolved by death.

#### V.—Of the Children of the Parties.

**44.** In any suit under this Act for obtaining a judicial separation or a decree of nullity of marriage, or for dissolving a marriage, the Court may from time to time pass such interim orders and make such provision in the final decree as it may deem just and proper, with respect to the custody, maintenance and education of the children under the age of sixteen years, the marriage of whose parents is the subject of such suit, and may, after the final decree, upon application by petition for this purpose, make from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such final decree, or by interim orders in case the suit for obtaining such decree were still pending.

**45.** In any case in which the Court shall pronounce a decree of divorce or judicial separation for adultery of the wife, if it shall be made to appear to the Court that the wife is entitled to any property either in possession or reversion, the Court may order such settlement as it shall think reasonable to be made of such property or any part thereof, for the benefit of the children of the marriage or any of them.

#### VI.—Of the Mode of enforcing Penalties under this Act.

**46.** All offences under this Act may be tried by any Officer exercising the powers of a Magistrate unless the period of imprisonment to which the offender is liable shall exceed that which such Officer is competent to award under the law for the time being in force in the place in which he is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Officer, the offender shall be committed for trial before the Court of Session.

**47.** If any offence which by this Act is declared to be punishable with fine, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the ordinary original Civil jurisdiction of the High Court, such offence shall be punishable upon

summary conviction by any Magistrate of Police of the place at which such Court is held.

**48.** All fines imposed under the authority of this Act may, in case of non-payment thereof, be levied by distress and sale of the offender's movable property by warrant under the hand of the Officer imposing the fine.

**49.** In case any such fine shall not be forthwith paid, such Officer may order the offender to be arrested and kept in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

**50.** If upon the return of the warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient movable property whereupon such fine could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender to prison, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount of fine.

#### VII.—Miscellaneous.

**51.** Subject to the provisions contained or referred to in this Act, the High Court shall make such rules and regulations concerning the practice and procedure of the Parsee Chief and District Matrimonial Courts in the Presidency or Government in which such High Court shall be established, as it may from time to time consider expedient, and shall have full power from time to time to revoke or alter the same. All such rules, revocations and alterations shall be published in the Official Gazette.

**52.** The Governor General of India in Council may invest the Chief Executive Officer of any part of British India, under the immediate administration of the Government of India with the powers vested by this Act in a Local Government.

**53.** This Act shall commence and take effect on the first day of September 1865, and shall extend to the whole of British India.

[illegible]

**WHITLEY STOKES,**  
*Offg. Asst. Secy. to the Govt. of India,*  
*Roma Dept. (Legislative).*

Words in the singular number shall include the plural, and words in the plural number shall include the singular.

"Courts of Revenue."

"Courts of Revenue" include Officers employed in making or revising Settlements.

"Land" does not apply to any land excluded from a Settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

**2.** In any District in the Province of Oude in which a Settlement of the Land Revenue is in progress, all suits of whatever description arising in such District relating solely to the title or succession to land, or to the possession of land, or to any right in respect of any land, shall, during the continuance of such Settlement, and for such further period thereafter as the Governor-General of India in Council, by notice to be published in the Official Gazette, may appoint, be cognizable in the first instance in the Courts of Revenue of the said Province, and in the last resort upon appeal by the Financial Commissioner. The Governor-General of India in Council may invest any Officer with the powers of a Court of first appeal between the Court of first instance and the Financial Commissioner, and shall fix the periods within which appeals shall be preferred from the decision of the Court of first instance to the Court of first appeal, or, when there is no such Court, to the Financial Commissioner, and from the decisions of the Court of first appeal, when there is such Court, to the Financial Commissioner: Provided that where in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor the Financial Commissioner shall have jurisdiction under this Section.

**3.** The Financial Commissioner shall, with respect to suits cognizable by the Revenue Courts under the second Section of this Act, be deemed the highest Court of appeal in the Province of Oude within the meaning of the Code of Civil Procedure, and shall have and exercise in respect of such suits all the powers vested in the Sudder Court and shall be subject to all the rules prescribed with reference to the Sudder Court by such Code, subject to the restrictions, limitations and provisos, with which the Code was extended to the said Province as contained in the declaration of the Governor-General in Council, bearing date the 6th August 1861. Subject to the same restrictions, limitations and provisos, the proceedings of the Courts of first appeal and the Courts of first instance shall be regulated by the Code of Civil Procedure.

**4.** Subject to the proviso in the second Section of this Act, no suit relating to the title or succession to land in Oude, or to the possession of land, or to any right in respect of any land shall, during the period limited in the said Section, be instituted or tried in any Court or before any Authority, except in the Courts or before the Authorities hereinbefore in that behalf specified.

**5.** No suit relating to any under-tenure which shall be cognizable in any Revenue Court under this Act shall be debarred from a hearing under the rules relating to the limitation of suits in force in the Province of Oude, if the cause of action shall have arisen on or after the thirteenth day of February 1844. Provided that this Section shall not apply to any suit by a person claiming only a right to cultivate as a tenant-at-will, or as a tenant with the right of occupancy, or as a tenant at fixed or favourable rates.

**6.** Any suit or appeal relating to any under-tenure (not being a suit within the proviso contained in the last preceding Section) cognizable under this Act by any Revenue Court, which may have been rejected or dismissed on the ground that the suit was barred by lapse of time under the law of limitation in force in the Province of Oude, may be revived and heard on the merits, if the cause of action shall have arisen on or after the date mentioned in the last preceding Section: Provided that a petition for the revival of the appeal or suit be presented in the Court of the Financial Commissioner if the rejection or dismissal took place in appeal, or in the Court of first instance if the rejection or dismissal took place in that Court, within six calendar months from the date of the passing of this Act. The petition may be written on paper bearing the stamp required for petitions presented to the Financial Commissioner or subordinate Revenue Court, as the case may be.

**7.** All suits relating to the proprietary right in, succession to or possession of, any land, or to any right in respect to any land, which shall be instituted after the expiration of the period appointed in the second Section of this Act, shall be heard and determined in the Civil Courts of the Province of Oude according to their respective jurisdictions, under and subject to all the rules contained in the Code of Civil Procedure as the same shall have been extended to such Province, and not otherwise.

**8.** No order or decision made or passed by any Revenue Court in Oude subsequently to the extension of the Code of Civil Procedure to the Province and before the passing of this Act, in any suit relating to the proprietary right in, succession to or possession of, any land, or to any right in respect of any land in the said Province, shall be invalid by reason of anything contained in the said Code.

WHITLEY STOKES,

*Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)*



The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 12th April 1865, and is hereby promulgated for general information :—

ACT No. XVII of 1865.

An Act to amend certain Acts relating to the duties of Customs on goods imported and exported by Sea.

Whereas it is expedient to amend the Law relating to Customs duties; It is enacted as follows :—

1. In lieu of the Customs duties authorized to be charged in Act VII of 1859 Customs Duties to be levied as prescribed in the Schedules annexed to this Act. (to alter the duties of Customs on goods imported or exported by Sea), Act XXIII of 1859 (to alter the rules of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively), Act X of 1860 (to amend Act VII of 1859 to alter the duties of Customs on goods imported or exported by Sea), Act XI of 1862 (to amend Act X of 1860, to amend Act VII of 1859), Act XXIII

of 1862 (to amend Act XI of 1862), and Act XXIII of 1864 (to amend the law relating to the Customs duties on goods imported by Sea), there shall be levied and collected the duties specified in the two Schedules A and B annexed to this Act. Provided always that nothing herein contained shall be deemed to alter the existing duties upon Salt and Opium, or to authorize the levy of duties in any free Port, or to affect the provisions of Act VI of 1848 (for equalizing the duties on goods imported and exported on Foreign and British bottoms and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company), or to affect the provisions of The Consolidated Customs' Act.

2. So far as regards the Customs duty on the export of Saltpetre, this Act shall take effect as if it had been passed and had received the assent of the Governor General on the ninth day of March 1865; but save as aforesaid, this Act shall take effect from the first day of April 1865.

Short title.

3. This Act shall be cited as "The Indian Customs Duties' Act of 1865."

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port in British India, not being a Free Port.

	Free
1. Bullion and Coin	...
2. Precious Stones and Pearls	...
3. Grain and Pulse	...
4. Horses and other living Animals	...
5. Ice	...
6. Coal, Coke, Bricks, Chalk, and Stones	...
7. Cotton Wool	...
8. Wool	...
9. Flax	...
10. Hemp	...
11. Jute	...
12. Hides and Skins, raw	...
13. Books	...
14. Paper	...
15. Maps, Prints, Music and Works of Art	...
16. Seeds when imported by any Public Society for gratuitous distribution	...
17. Agricultural Implements	...
18. Firewood	...
19. Machinery used exclusively for purposes of Agriculture, Navigation, Mining or Manufacture, or for Railway purposes, and materials forming necessary component parts of such machinery	...
And the Officer in charge of the Custom House, subject to the orders of the Local Government acting under the general instructions of the Government of India, shall decide what articles come within the definition of such machinery or materials forming component parts thereof, and such decision shall be final in law.	
20. Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	...
21. Guano and manures of all kinds	...
22. Bottles	...
23. Wines and Liqueurs	one Rupee the imperial gallon.
24. Porter, Ale, Beer, Cider, and other similar fermented Liquors	one anna the imperial gallon.
25. Spirits	three Rupees the imperial gallon, and the duty to be rateably increased as the strength exceeds London Proof.

Provided that 10 per cent. *ad valorem* shall be charged on all spirits used exclusively in Arts and Manufactures, or in Chemistry, subject to such rules as the Local Governments shall from time to time prescribe, for ascertaining that such spirits are unfit for use as a beverage, and incapable of being converted to that purpose. And the Officer in charge of the Custom House, subject to the general instructions of the Local Government, shall decide what spirits fall within the proviso, and his decision thereon shall be final in law.

26.	Iron (which shall not be taken to include ironmongery cutlery or hard-ware) ...	one per cent. <i>ad valorem</i> .
27.	Hops ...	one per cent. <i>ad valorem</i> .
28.	Tobacco, whether manufactured or not manufactured ...	ten per cent. <i>ad valorem</i> .
29.	Piece Goods ...	five per cent. <i>ad valorem</i> .
30.	Twist ...	three and a half per cent. <i>ad valorem</i> .
31.	All other articles not included in the above enumeration ...	seven and a half per cent. <i>ad valorem</i> .

## SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea to any Foreign Port as defined in The Consolidated Customs' Act from any Port in British India.

1.	Bullion and Coin	...	Free
2.	Precious Stones and Pearls	...	"
3.	Horses and other living Animals	...	"
4.	Rum	...	"
5.	Spirits	...	"
6.	Tobacco and all preparations thereof	...	"
7.	Cotton Wool	...	"
8.	Flax	...	"
9.	Hemp	...	"
10.	Books	...	"
11.	Maps, Prints, and Works of Art	...	"
12.	Teak Timber	...	"
13.	Coal	...	"
14.	Iron	...	"
15.	Grain and pulse of all sorts	three annas the Indian maund.	} of forty seers of eighty tolahs to the seer.
16.	Saltpetre	one Rupee the Indian maund.	
17.	Indigo	three Rupees the Indian maund.	
18.	Lac Dye and Shell Lac	four per cent. <i>ad valorem</i> .	
19.	Hides and Skins, raw	two per cent. <i>ad valorem</i> .	
20.	Sugar	two per cent. <i>ad valorem</i> .	
21.	Raw Silk and Silk Chussum	two per cent. <i>ad valorem</i> .	
22.	All country articles not enumerated or named above	three per cent. <i>ad valorem</i> .	

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information:—

Act No. XVIII of 1865.

An Act to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties).

Whereas it is expedient to amend Act No. X of 1862 (to consolidate and amend the Law relating to Stamp Duties); It is enacted as follows:—

1. The thirty-third Section of the said Act No. X of 1862 is hereby repealed, and the following Section shall be read in lieu thereof:—

2. The Governor-General of India in Council may, from time to time, by an order to be published in the Official Gazette, reduce or remit in the whole or any part of the Territories to which the said Act X of 1862 applies, the Stamp Duties prescribed by the said Act and chargeable on all or any of the Deeds, Instruments, and Writings mentioned in the Schedules thereto, or on any particular class of such Deeds, Instruments, and Writings, belonging to such class; or on any of the Deeds, Instruments, and Writings, as aforesaid, when executed or granted by or to any particular class of persons or by or to any members of such class, and may in like manner cancel or vary such order to the extent of the powers hereby given. Such cancellation or variation shall also be published in the Official Gazette.

3. Article eleven of Schedule B to the said Act X of 1862, shall be read as if after the words and figures "Act III of 1859," the following words were inserted, that is to say, "or in Courts of Small Causes established under Section six of Act XXII of 1864 (to make provision for the administration of Military Cantonments)."

4. This Act shall be read with and taken as part of the said Act No. X of 1862.

This Act to be taken as part of Act X of 1862.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative.)

The following Act of the Governor General of India in Council received the assent of His Excellency the Governor General on the 10th April 1865, and is hereby promulgated for general information :—

**Act No. XIX of 1865.**

*An Act to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies.*

Whereas it is expedient to define the jurisdiction of the Courts of Judicature in the Punjab and its Dependencies; It is enacted as follows :—

**1.** This Act shall be called "The Punjab Courts' Act, 1865."

**2.** In this Act "Assistant Commissioner" includes "Extra Assistant Commissioner."

"Land" does not apply to any land excluded from a settlement of Land Revenue, whether the Revenue be paid to Government or to the assignee of Government.

**3.** For the purposes of this Act the local jurisdiction of a Deputy Commissioner shall be deemed a District, and the Court of such Deputy Commissioner shall be deemed the District Court. The local jurisdiction of a Commissioner shall, in like manner, be deemed a Division, and his Court a Divisional Court.

**4.** There shall be seven grades of Courts in the Punjab, which shall be in addition to any Courts of Small Causes, and to any other Courts established under any Act which may hereafter be passed unless otherwise provided in such Act, namely :—

- (1.)—The Court of the Tahsildar.
- (2.)—The Court of the Assistant Commissioner with ordinary powers.
- (3.)—The Court of the Assistant Commissioner with special powers.
- (4.)—The Court of the Assistant Commissioner with full powers.
- (5.)—The Court of the Deputy Commissioner.
- (6.)—The Court of the Commissioner.
- (7.)—The Court of the Judicial Commissioner.

**5.** The Local Government may invest any Tahsildar with power to try and determine suits of every description not exceeding three hundred Rupees in value or amount.

**6.** The Local Government shall also have power, from time to time, specially to invest any Naib Tahsildar with the powers of a Tahsildar as aforesaid within such limits as it may think proper, and to withdraw such powers.

**7.** The Assistant Commissioner with ordinary Jurisdiction of Assistant Commissioner with ordinary powers shall have power to try and determine suits of every description not exceeding one hundred Rupees in value or amount.

**8.** The Assistant Commissioner with special Jurisdiction of Assistant Commissioner with special powers shall have power to try and determine suits of every description not exceeding five hundred Rupees in value or amount.

**9.** The Criminal powers to be exercised by the Courts of the said first, second, and third grades respectively, shall be those with which the several Officers presiding in those Courts shall from time to time be invested by the Local Government under Section twenty-three of the Code of Criminal Procedure.

**10.** The Assistant Commissioner with full Jurisdiction of Assistant Commissioner with full powers shall, on the Civil side, have power to try and determine suits of every description under ten thousand Rupees in value or amount, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure.

**11.** The Deputy Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the first three grades of Courts mentioned in the fourth Section of this Act, and on the Criminal side to exercise the powers of a Magistrate as defined in the Code of Criminal Procedure, and to hear appeals according to the provisions of the same Code relating to the hearing of appeals by Magistrates from the sentences and orders of Courts subordinate to the Magistrate of the District. The Deputy Commissioner may also be invested by the Local Government with the powers described in Act No. XV of 1862 (*to amend the Code of Criminal Procedure*).

**12.** The Commissioner shall, on the Civil side, have power to try and determine suits of every description without limitation in value or amount, and to hear and determine appeals, where an appeal is allowed by the Code of Civil Procedure in force in the Punjab, from decisions and orders of the Courts of the said fourth and fifth grades, and, on the Criminal side, to exercise the powers of a Sessions Judge as defined in the Code of Criminal Procedure, and to hear appeals from the subordinate Courts according to the provisions of the same Code relating to the hearing of appeals by the Sessions Court.

**13.** Every suit shall be instituted in the Court of the lowest grade competent to try it: Provided that no suit cognizable by a Court of Small Causes shall be heard or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Court of Small Causes.

**14.** The Deputy Commissioner may direct the business in the Courts subordinate to him, holding their sittings at the same place, to be distributed among such Courts in such way as he shall think fit: Provided that no Court shall try any suit the value or amount of which shall exceed its proper jurisdiction.

**15.** The Commissioner or Deputy Commissioner may withdraw any suit instituted in any Court subordinate to him and try such suit himself, or refer it for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same. The Commissioner may also withdraw any appeal from the Court of any Deputy Commissioner subordinate to him and try the appeal himself or refer it for trial to the Court of any other Deputy Commissioner in his Division.

**16.** The Judicial Commissioner may withdraw any suit or appeal from any Court subordinate to him other than Courts of Small Causes or Courts of Cantonment Magistrates, and refer such suit or appeal for trial to any other Court subordinate to him and competent in respect of the value or amount of the suit to try the same.

**17.** If the suit be for immovable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within whose jurisdiction any portion of the property is situate, provided that, in respect of the value of the property in suit, the entire claim be cognizable by such Court. In such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same, and the District Court, after hearing the objections, if any, of the defendant, may grant such authority.

**18.** If the suit be for immovable property situate within the limits of different Districts within the same Division, the suit may be brought in any Court otherwise competent to try it, within the jurisdiction of which any portion of such property is situate; but in such case the Court in which the suit is brought shall apply to the Commissioner of the Division for authority to proceed with the same; and such Commissioner, after hearing the objections, if any, of the defendant, may grant authority accordingly. If the suit is brought in any Court subordinate to the Court of the Deputy Commissioner, the application shall be submitted to the Commissioner of the Division through the Deputy Commissioner to whom such Court is subordinate.

**19.** If the Districts within the limits of which the immovable property is situate are subordinate to different Commissioners, the application mentioned in the last preceding Section shall be sub-

mitted to the Commissioner in whose Division the District in which the suit is brought is situate, and such Commissioner, after hearing the objections, if any, of the defendant, may give authority to proceed with the suit.

**20.** Whenever the number of cases depending in any District or Divisional Court shall be so great as to prevent their being disposed of within a reasonable period, the local Government may, with the previous sanction of the Governor General of India in Council, invest any Officer with the Civil and Criminal powers of a Deputy Commissioner or Commissioner, as defined in this Act, in such District or Division as the case may be.

**21.** In any District in which a Settlement of land revenue is in progress, the local Government may, on its own authority, empower and direct the Tahsildars, Assistant Commissioners, Deputy Commissioners, and Commissioner in such District, to exercise their respective powers as defined in this Act in suits regarding land or the rent, revenue or produce of land, on the Revenue, and not on the Civil side of their Courts. The local Government may also, with the previous sanction of the Governor General of India in Council, invest any special Officer in such District with the Civil powers of a Commissioner, Deputy Commissioner, Assistant Commissioner or Tahsildar, as defined in this Act, for the purpose of deciding suits in respect to land or the rent, revenue or produce of land, such powers to be exercised on the Revenue side: Provided that in all such suits as aforesaid no deviation be allowed from the Rules of Civil Procedure in force, and that the powers given under this Section shall continue only so long as Settlement operations are in progress in the District, and shall cease on the termination thereof.

**22.** In any District in which a Settlement of Land Revenue is in progress, the local Government may invest the Financial Commissioner with the powers of the Judicial Commissioner for the purpose of trying special appeals from Commissioners and Deputy Commissioners in all decisions passed by them in regular appeal under the twenty-first Section of this Act, and with the power of a Court of final appeal in any class of suits regarding land, or the rent, revenue, or produce of land: Provided that in the trial of such appeals no deviation shall be allowed from the Rules of Civil Procedure in force, and that the power given under this Section shall continue only so long as Settlement operations shall be in progress, and shall cease on the termination thereof. So long as the Financial Commissioner may be invested with powers as aforesaid the jurisdiction of the Judicial Commissioner in respect to the appeals hereby made cognizable by the Financial Commissioner shall be suspended.



**23.** Whenever in a case of succession or inheritance the claim shall relate not only to land but to land and other property not permanently attached to the land comprised in the claim, neither the Revenue Courts nor Financial Commissioner shall have jurisdiction under the twenty-first or the twenty-second Section of his Act.

**24.** No decision or order passed by any Officer in the Punjab and its Dependencies prior to the passing of this Act shall be invalid solely on the ground of a doubt existing as to the authority of the Officer who passed the decision or order.

**25.** This Act shall commence and come into operation on the first day of May 1865.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

#### Act No. XX of 1865.

#### *An Act to amend the law relating to Pleaders and Mookhtars.*

Whereas it is expedient to amend the law relating to Pleaders and Mookhtars, and to provide rules for the qualification, admission, enrolment, suspension, and dismissal of Revenue Agents; It is enacted as follows:—

#### *Preliminary.*

**Short title.** 1. This Act may be cited as "The Pleaders, Mookhtars, and Revenue Agents' Act, 1865."

**2.** In this Act, unless there be something repugnant or inconsistent in the subject or context—

**Words importing the singular number include the plural, and words importing the plural number include the singular.**

**"Section."** "Section" means a Section of this Act.

**"Person"** includes any Company or Association or body of persons, whether incorporated or not.

**"Pleader."** "Pleader" includes Vakeels.

**"Collector"** includes Officers performing any of the duties of a Collector of land revenue.

**"Magistrate."** "Magistrate" includes Officers exercising any of the powers of a Magistrate.

**"Judge"** means the presiding judicial Officer in every Civil and Sessions Court by whatever title he is designated.

**"Court."** means all Courts subordinate to the High Court, including Courts of Small Causes.

**"District"** means the local jurisdiction of the principal Civil Court of original jurisdiction; and "District Court" means such

Court, and includes Sessions Courts, and, for the purposes of this Act, the Courts of a Commissioner and Deputy Commissioner, or any other Court in the Territories known as Non-Regulation, exercising like powers as those of a Commissioner and Deputy Commissioner or of a Civil and Sessions Judge.

And in any part of British India in which this Act operates, "Local Government" denotes the person authorized to administer the executive Government in such part: "High Court" denotes the highest Civil Court of Appeal, and "Board of Revenue" denotes the chief Revenue Authority therein.

**3.** So far as they affect the Territories to which this Act extends, the Laws repealed. enactments set forth in the first Schedule hereto are repealed, except so far as they repeal any other enactment, and except as to the recovery and application of any penalty for any offence which shall have been committed before the commencement of this Act.

#### *Of Pleaders and Mookhtars.*

**4.** The High Court is hereby authorized and required, within six months after this Act shall take effect in the Territories in which such Court exercises jurisdiction, to make rules for the qualification, admission, and enrolment of proper persons to be Pleaders and Mookhtars of the Courts in such Territories, for the fees to be paid for the examination, admission, and enrolment of such persons, and, subject to the provisions hereinafter contained, for the suspension and dismissal of the Pleaders and Mookhtars so admitted and enrolled. The High Court may also from time to time, vary and add to such rules.

**5.** Except as hereinafter provided, no person shall appear, plead or act as a Pleader, or appear or act as a Mookhtar in any Court to which this Act extends, unless he shall have been admitted and enrolled and shall be otherwise duly qualified to practise as a Pleader or as a Mookhtar, as the case may be, pursuant to the provisions of this Act, and unless he shall continue to be so qualified and enrolled at the time of his practising as a

Pleader or Mookhtar as aforesaid: Provided that every person who at the time at which this Act shall come into operation in any part of British

India shall be, or shall be qualified to act, as a Pleader in any Court in such part, by virtue of any law, rule or order in force therein, shall be entitled to be admitted and enrolled as a Pleader in the High Court pursuant to the provisions of this Act, without passing any examination, but subject to the conditions of any certificate or diploma held by him as to the class of Courts in which such certificate or diploma authorizes him to practise.

**6.** To facilitate the ascertainment of the qualifications mentioned in the fourth Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid, and make regulations for conducting such examinations.

**7.** The High Court shall cause the name of every person who shall be admitted a Pleader or a Mookhtar pursuant to the provisions of this Act, to be enrolled in books to be provided and kept for that purpose in such Court. The Courts shall take judicial notice whether a Pleader or Mookhtar is enrolled or not.

**8.** The High Court shall cause certificates, signed by such Officer as the Court shall appoint, to be issued to persons who have been admitted and enrolled under the provisions of this Act as Pleaders or Mookhtars and are entitled to practise as such. Any such certificate, when renewed as provided in the ninth Section, may be issued and signed by the Officer so appointed or by the Judge of the District Court within the limits of whose jurisdiction the holder of the certificate shall then ordinarily practise. Every Judge so renewing a certificate shall notify such renewal to the High Court.

**9.** Every certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the second Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall be entitled to have his certificate renewed, and on every such renewal the certificate then in the holder's possession shall be cancelled and retained by the Officer or Judge signing the renewed certificate.

**10.** The stamp on the certificate, whether original or renewed, shall be of the following value:—

On a certificate authorizing the holder to practise as a Pleader—

(a.) In the High Court and any subordinate Court—Rupees fifty:

(b.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees twenty-five:

(c.) In the Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees fifteen:

(d.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees five.

On a certificate authorizing the holder to practise as a Mookhtar—

(e.) In the High Court and any subordinate Court—Rupees twenty-five:

(f.) In the District Courts, subordinate Courts, and Small Cause Courts—Rupees sixteen:

(g.) In the Courts of the Commissioners of Circuit, Magistrates and Subordinate Magistrates: in Sudder Ameens' and Moonsiffs' Courts and in the Courts of Assistant Commissioners, Extra Assistant Commissioners, and Tahsildars—Rupees eight:

(h.) In the Moonsiffs' Courts or any Court of first instance not hereinbefore mentioned—Rupees four.

**11.** Pleaders duly admitted and enrolled under this Act may appear, plead and act in any Criminal Court, or before any Board of Revenue or in any Revenue Office within the limits of the general jurisdiction of the High Court in which they are enrolled. Mookhtars duly admitted and enrolled as aforesaid may, subject to the conditions of their certificates as to the class of Courts in which they are authorized to practise, appear and act in any Civil Court, and may appear, plead and act in any Criminal Court within the same limits.

**12.** Every person who shall have been admitted to practise as a Pleader or Mookhtar under the provisions hereinbefore contained may, subject to the conditions of his certificate as to the class of Courts in which he is authorized to practise, apply to be enrolled in the Court in which he shall desire ordinarily to practise; and on such application he shall be enrolled in a book to be kept for that purpose in such Court. Provided that neither this Section nor the last preceding Section shall apply to any Court established by Royal Charter.

**13.** Except as hereinafter provided, any person who shall practise as a Pleader or Mookhtar in any Civil or Criminal Court or Revenue Office to which this Act extends, without having previously obtained a properly stamped certificate authorizing him so to practise, which certificate shall be then in force, shall be liable by order of such Court or the Officer at the head of such Office to a fine not exceeding ten times the amount of the stamp required by this Act to be impressed on the certificate which he should then have held, and, in default of payment, to imprisonment in the Civil Jail for a period not exceeding six calendar months.

He shall also be incapable of maintaining any suit for any fee or reward for or in respect of anything done or any disbursement made by him as such Pleader or Mookhtar whilst he shall have been without such certificate.

**14.** The High Court may suspend or dismiss any Pleader or Mookhtar enrolled under this Act in such Court, who shall be convicted of any criminal offence.

*High Court may suspend or dismiss Pleader or Mookhtar convicted of a criminal offence.*

**15.** The High Court may also, after such enquiry as it may deem proper, suspend or dismiss any Pleader or Mookhtar enrolled as aforesaid who shall be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

*High Court may suspend or dismiss any Pleader or Mookhtar practising therein and guilty of unprofessional conduct.*

**16.** If any Pleader or Mookhtar practising in any Court subordinate to the High Court, shall be charged in such subordinate Court with any such conduct as aforesaid, the Judge or Magistrate of the Court, as the case may be, shall send him a copy of the charge and also a notice that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the Pleader or Mookhtar at least ten days before the day so appointed; and on such day, or on any subsequent day to which the enquiry may be adjourned, the Court shall receive all evidence properly tendered by or on behalf of the party bringing the charge or by the Pleader or Mookhtar, and shall proceed to adjudicate on the charge. If the Judge or Magistrate shall find the charge established, and consider that the Pleader or Mookhtar should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof, and shall report the same to the High Court, and the High Court shall proceed to acquit, suspend or dismiss the Pleader or Mookhtar. Such report when made by any Officer other than the District Judge shall be submitted to the High Court through the District Judge, who shall accompany the report with any remarks that he may think necessary and an expression of his own opinion on the case. Such report, when made by a Magistrate subordinate to the Magistrate of the District, shall be submitted through the Magistrate of the District to the District Judge, and shall be accompanied by the remarks and opinion of the Magistrate of the District as aforesaid. The Judge or Magistrate may, pending the investigation and the orders of the High Court, suspend the Pleader or Mookhtar from practising as such in his Court.

*Procedure when charge of unprofessional conduct is brought in a subordinate Court.*

*Suspension pending investigation.*

**17.** The High Court, in any case in which a Pleader or Mookhtar shall have been acquitted under the last preceding Section otherwise than by an order of the High Court, may call for the record and pass such order thereon as shall seem fit.

*High Court may call for the record in case of acquittal under Section 16.*

**18.** When any Pleader or Mookhtar shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Court in which he was practising at the time he was so suspended or dismissed, or to any Court to which he shall be ordered by the High Court to deliver the same. If he fail to make such delivery, he shall be liable, by order of such Court, to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months. If during such suspension or after such dismissal, he shall practise as a Pleader or Mookhtar in any Court, he shall be liable, by order of such Court, to a fine not exceeding five hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding six calendar months.

*Dismissed Pleader or Mookhtar to surrender his certificate.*

*Of Agents practising in the Revenue Offices.*

**19.** No person other than a Pleader duly qualified under the provisions hereinbefore contained, or other than persons authorized by such general or special powers of attorney as are hereinafter mentioned, shall practise as an Agent in any proceeding before the Board of Revenue or in any Office subordinate to such Board, unless he shall have obtained a certificate from such Board in the manner hereinafter provided. Any such certificate, when renewed as provided in the twenty-first Section, may be issued and signed by the Secretary of the Board or by any other Officer authorized by the Board in that behalf, or by the Collector of the District within the limits of whose jurisdiction the holder of the certificate shall practise at the time of renewal.

*No person to act as Agent in Revenue Offices or Magistrates' Courts, unless qualified as herein provided.*

**20.** The Board of Revenue shall cause the name of every person (hereinafter called a Revenue Agent) who shall have obtained such certificate to be enrolled in a book to be provided and kept for that purpose by the Secretary of the Board or other Officer authorized by the Board in that behalf.

*Names of Revenue Agents to be enrolled.*

**21.** Every such certificate, whether original or renewed, shall be engrossed upon stamp paper to be supplied by the person entitled to the certificate, and shall be in the form contained in the third Schedule to this Act, and shall authorize the holder to practise for the period of one year from the date of the certificate. At the expiration of such time, the holder of the certificate, if desirous to continue to practise, shall renew his certificate, and on every such renewal the certificate then in his possession shall be cancelled and retained by the Officer or Collector signing the renewed certificate. Every Collector so renewing a certificate shall notify such renewal to the Board of Revenue.

*Form of Certificate.*

**22.** The stamp on such certificate, whether original or renewed, shall be of the following value—

*Value of stamp.*

On a certificate authorizing the holder to practise as a Revenue Agent.

In the Board of Revenue or in any Office subordinate to the Board—Rupees fifteen.

In the Office of a Commissioner or in any Office subordinate to a Commissioner—Rupees ten.

In the Office of a Collector or in any Office subordinate to a Collector—Rupees five.

**23.** The Board of Revenue shall, before they shall grant any such certificate, satisfy themselves of the qualifications and fitness of the person applying for the same; and they are hereby authorized and required within six months after the commencement of this Act in the part of British India in which such Board is situate, to prepare rules for the purpose of defining what qualifications shall be required for such certificate.

**24.** To facilitate the ascertainment of the Local Government to appoint Examiners. the last preceding Section, the Local Government shall from time to time appoint persons to be Examiners for the purposes aforesaid and make regulations for conducting the examinations.

**25.** Every person who shall have been admitted to practise as a Revenue Agent under this Act, may, subject to the conditions thereof as to the class of Offices in which he is authorized to practise, apply to be enrolled in the Office in which he shall desire ordinarily to practise, and on such application he shall be enrolled in a book to be kept for that purpose in such Office. Any such Revenue Agent shall also be entitled, on production of the certificate held by him, and subject to the conditions as aforesaid to practise as a Revenue Agent in all other Revenue Offices within the limits of the Territory under the Board of Revenue in which he is enrolled.

**26.** The Board of Revenue may suspend or dismiss any Revenue Agent practising in any Revenue Office, who shall be convicted of any criminal offence.

**27.** The Board of Revenue may also, after making such enquiry as it may think proper, suspend or dismiss any Revenue Agent practising before such Board, who may be guilty of fraudulent or grossly improper conduct in the discharge of his professional duty, or for any other reasonable cause.

**28.** If any Pleader shall, while practising before such Board, be charged with fraudulent or grossly improper conduct in the discharge of his duty in such practice, the Board shall enquire into the charge and report the result to the High Court, and the High Court, after making such further enquiry as it shall think fit, shall proceed to acquit, suspend or dismiss the Pleader, and shall thereupon send notice of such acquittal, suspension or dismissal to the said Board. Pending the investigation and the receipt of the notice last aforesaid, the Board may suspend the Pleader from practising before it.

**29.** If any Pleader or Revenue Agent shall be charged with any such conduct in any Office subordinate to the Board of Revenue, the Officer at the head of such Office shall send him a copy of the charge and also a notice

that, on a day to be therein appointed, such charge will be taken into consideration. Such copy and notice shall be served upon the person charged, at least ten days before the day so appointed; and on such day or on any other day to which the enquiry may be adjourned, the Officer shall receive all evidence properly tendered by or on behalf of the person bringing the charge, or by the person charged, and shall proceed to adjudicate on the charge. If the Officer find the charge established; and consider that the person charged should be suspended or dismissed in consequence, he shall record his finding and the grounds thereof and report the same to the Board of Revenue, and the Board shall, if the person charged be a Revenue Agent, proceed to acquit, suspend or dismiss him, and shall, if he be a Pleader, forward such report to the High Court in which he is enrolled. The High Court, after making any further enquiry which it shall think necessary, shall proceed to acquit, suspend or dismiss the Pleader so charged, and shall thereupon send notice of such acquittal, suspension or dismissal to the Board by whom such report was forwarded. If the Officer shall be subordinate to the Commissioner of a Division, he shall forward the report through such Commissioner, who shall accompany the same with any remarks that he may think necessary and an expression of his own opinion on the case.

**30.** The Board of Revenue, in any case in which a Pleader or Revenue Agent shall have been acquitted under the last preceding Section otherwise than by an order of the High Court or Board, may call for the record and pass such order thereon as shall seem fit, subject, in the case of a Pleader, to the provisions of the twenty-eighth Section.

**31.** Whenever a Revenue Agent who has been dismissed or suspended by order of the Board of Revenue shall also be a Mookhtar enrolled under the provisions of this Act, the Board of Revenue, shall forward a report of the case to the High Court in which he shall be enrolled; and such Court, after making any inquiry which it may think necessary, may suspend or dismiss him as such Mookhtar.

**32.** The provisions of the eighteenth Section shall apply to any Pleader or Mookhtar suspended or dismissed under the twenty-eighth, twenty-ninth or thirty-first Section.

**33.** When a Revenue Agent shall be suspended or dismissed under any of the foregoing Sections, he shall forthwith deliver up his certificate to the Board of Revenue or the Officer at the head of the Office in which he was practising at the time he was so suspended or dismissed, or to any other Officer whom the Board may order to receive the same. If he fail to make such delivery, he shall be liable by order of the Board or such Officer as aforesaid to a fine not exceeding two hundred Rupees, and, in default of payment, to imprisonment in the Civil Jail for a term not exceeding three calendar months.

**34.** Every person who shall practise as a Revenue Agent in any Revenue Office in the Territories to which this Act ex-



tends, without holding a certificate then in force and without being duly qualified to practise as herein provided, shall be liable by order of the Board or Officer in whose Office he shall so practise to a fine not exceeding Rupees two hundred and, in default of payment, to imprisonment in the Civil Jail for a period which may extend to three calendar months. The person so fined as aforesaid shall be incapable of maintaining any suit for any fee or reward for or in respect of any thing done or any disbursement made by him in the course of such practising.

**35.** Nothing hereinbefore contained shall prevent any person from employing any other person, though not a Revenue Agent enrolled under the provisions

Persons authorized by general or special powers of attorney may be Agents

of this Act, to commence and prosecute all business or any particular business in which the employer may be concerned in any Revenue Office: Provided that the person so commencing and prosecuting all or any such business as aforesaid shall hold a general or special power of attorney, as the case may be, in that behalf, from the person so employing him: Provided also that no person shall act as last aforesaid unless he shall have received the general or the special sanction, as the case may be, in that behalf, of the Board of Revenue or other Officer authorized by the Local Government to grant such sanction.

**36.** Such general or special sanction, as the case may be, may at any time be revoked or suspended by the Board of Revenue or other Officer as aforesaid by whom it was granted; and any person who, having received such sanction, shall practise under the nineteenth Section during the continuance of such revocation or suspension, shall be liable to the penalties and incur the disabilities mentioned in the thirty-third Section.

*Of the Remuneration of Pleaders and Revenue Agents.*

**37.** The High Court shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Courts by any party in respect of the fees of his adversary's Pleader; and the Board of Revenue shall from time to time fix and regulate the fees which shall be payable upon all proceedings in the Revenue Courts and Offices by any party in respect of the fees of his adversary's Pleader or Revenue Agent. Tables of the fees so fixed shall be published in the Official Gazette.

**38.** The provisions of the last preceding Section shall not be applicable to Agents appointed under the thirty-fifth Section.

**39.** Parties employing Pleaders, Mookhtars or Revenue Agents in any Court or Office shall be at liberty to settle with them by private agreement the remuneration to be paid for their professional services, and it shall not be ne-

cessary to specify such agreement in the power under which such Pleaders, Mookhtars or Revenue Agents for the time being act. Such agreements shall not be enforced otherwise than by regular suit.

*Miscellaneous.*

**40.** Any suitor may appear, plead and act in any suit, appeal or other proceeding on behalf of any co-suitor. And in all Criminal Courts, any person defending a case may (with the permission of the presiding Judge or Magistrate) employ any other person, though not a Pleader or Mookhtar duly qualified under the provisions of this Act, to assist him in such defence. But no suitor nor person so appearing, pleading, acting or assisting, shall be entitled to recover any fee or reward therefor.

**41.** The rules mentioned in the fourth and twenty-third Sections and all variations of and additions to such rules, shall be published in three consecutive numbers of the Official Gazette. Rules made under this Act by a High Court not established by Royal Charter shall, before such publication, be submitted to and approved by the Local Government.

**42.** Every order for imposing a fine which shall be passed under this Act, shall be subject to revision by the High Court if the order shall have been passed by a Court subordinate to the High Court, or by the Board of Revenue if the order shall have been passed by an Officer subordinate to such Board.

**43.** Any person who at the time that this Act shall come into operation in any part of British India shall be practising as a Pleader in any Court in such part, and who shall wish to be enrolled as a Pleader under this Act may apply to be so enrolled to the Court in which he is practising. Such Court, if subordinate to the High Court, shall forward the application to the High Court. The High Court shall cause the applicant to be enrolled under the provisions of this Act, and, if he be practising in a subordinate Court, shall authorize the District Judge to grant a certificate to the applicant as provided in the eighth, ninth and tenth Sections. Applications for enrolment under this Section, when made by any Pleader practising in a Court subordinate to the District Court, shall be forwarded to the High Court through the District Judge.

**44.** With the exception of Section thirty-nine this Act shall not apply to Advocates, Vakils and Attorneys-at-law, admitted and enrolled by any High Court under Letters Patent, or to Mookhtars practising in such Court: Provided that the High Court shall have power to make rules for the qua-

lification, admission, enrolment, suspension and dismissal of the Mookhtars practising on the appellate side of such Court and to prescribe penalties for persons practising contrary to such rules or any of them, and from time to time to vary such rules and penalties. Provided also that the High Court may from time to time fix and regulate the fees which shall be payable on all proceedings on the appellate side of such Court by any party in respect of the fees of his adversary's Vakeel. The rules, penalties and fees so made, prescribed and fixed and every variation thereof shall be published in three consecutive numbers of the Official Gazette.

**45.** Every person now or hereafter enrolled as an Advocate and Vakeels enrolled in a High Court may practise in any Court other than a High Court in which they are not enrolled. an Advocate or Vakeel on the Roll of any High Court under the Letters Patent constituting such Court shall, notwithstanding any thing hereinbefore contained, be entitled as such to practise in any Court in British India other than a High Court on whose Roll he is not enrolled, or in any such Court with the permission of the Court, and in any Revenue Office, subject nevertheless to the rules in force relating to the language in which the Court or Officer is to be addressed by Pleaders or Revenue Agents. Provided that no such Vakeel shall be entitled to practise under this Section before a Judge of the High Court, Division Court or High Court exercising original jurisdiction.

**46.** Every person now or hereafter enrolled as an Attorney of a High Court may plead in any Court not a High Court. as an Attorney on the Roll of any High Court shall, notwithstanding anything hereinbefore contained, be entitled as such to practise in any Court of British India other than a High Court established by Royal Charter and in any Revenue Office.

**47.** This Act shall take effect in the Territories under the Governments of the Lieutenant Governors of Bengal and the North-Western Provinces, respectively, on the first day of January 1866, and may be extended by order of any other Local Government to the Territories subject to such Government. Every such order shall be published in the Official Gazette.

**48.** From the date on which this Act shall be extended by the Local Government under the provision contained in the last preceding Section to the Territories subject to such Government, so much of the Regulations in force therein as is in any way inconsistent with, or repugnant to, any of the provisions of this Act, shall cease to have effect in such Territories except as to the recovery and application of any penalty for any offence which shall have been incurred before such extension of the Act.

#### FIRST SCHEDULE.

*Regulations and Acts and parts of Regulations and Acts repealed so far as they affect the Territories to which this Act extends.*

Number and date of Regulations.	What Code.	Title.	Extent of Repeal.
Regulation XXVII, 1814.	Bengal Code.	For reducing into one Regulation, with amendments and modifications, the several rules which have been passed regarding the office of Vakeel or Native Pleader in the Courts of Civil Judicature.	So much as has not already been repealed.
Regulation VII, 1822.	Bengal Code.	For declaring the principles according to which the settlement of the land revenue in the Ceded and Conquered Provinces, including Cuttack, Puttaspore, and its dependencies, is to be hereafter made, and the powers and duties belonging to Collectors or other Officers employed in making, revising, or superintending Settlements; for continuing, with certain exceptions, the existing leases within the said Provinces, for a further term of five years; for defining, settling, and recording the rights and obligations of various classes and persons possessing an interest in the land, or in the rent or produce thereof; and for vesting the Revenue Authorities with judicial cognizance in certain cases of suits and claims relating to land, the rent, and produce of land.	Section xxv.
Regulation IX, 1825.	Bengal Code.	For extending the operation of Regulation VII, 1822; for authorizing the Revenue Authorities to let in farm estates under temporary leases, on the default of the Malguzars, or to hold the same khas for a term of years; for modifying and adding to the rules contained in Regulation II, 1819; and for making certain other amendments in the existing Regulations.	So much of Clause 9, Section v, as provides that Section xxv of Regulation VII of 1822, shall be applicable to cases investigated by Collectors under the rules of Regulation II of 1819, or under the provisions of Regulation IX of 1825.

Number and date of Acts.	Title.	Extent of Repeal.
Act I of 1846.	For amending the law regarding the appointment and remuneration of Pleaders in the Courts of the East India Company.	The whole.
Act XVIII of 1852.	To amend the law relating to Pleaders in the Lower Provinces of the Presidency of Bengal.	The whole.
Act XX of 1853.	To amend the law relating to Pleaders in the Courts of the East India Company.	The whole.
Act X of 1859.	To amend the law relating to the recovery of rent in the Presidency of Fort William in Bengal.	So much of Section lxxi as directs that no fee for any Agent shall be charged as part of the costs of suit in any case under the said Act, and the whole of Section cxlix.

## SECOND SCHEDULE.

*Form of Pleader or Mookhtar's Certificate.*

## Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. Pleader [or Mookhtar], whose place [or places] of business is [or are] at hath this day delivered and left with me a declaration in writing signed by him and containing his name and place [or places] of business and the Court [or Courts] of which he is admitted a Pleader [or Mookhtar] together with the year in which he was so admitted; and I hereby further certify that he is duly enrolled in the High Court of Judicature at Fort William in Bengal [or the Sudder Court of the North-Western Provinces, or as the case may be] and that he is entitled to practise as a Pleader [or Mookhtar] in the District Courts, subordinate Courts, and Small Cause Courts [or the Sudder Court of the North-Western Provinces, and any subordinate Court, or the Sudder Ameens' Courts, or the Moonsiffs' Courts as the case may be] and to practise as a Revenue Agent before the Board of Revenue of the Lower Provinces [or of the North-Western Provinces, or as the case may be] for the period of one year from the date hereof. Given under my hand this 186 day of

C. D.

Registrar [or as the case may be] of the High Court of Judicature at Fort William in Bengal [or of the Sudder Court of the North-Western Provinces, or as the case may be.]

## THIRD SCHEDULE.

*Form of Revenue Agent's Certificate.*

## Stamp

Pursuant to "The Pleaders, Mookhtars and Revenue Agents' Act, 1865," I hereby certify that A. B. of is entitled to practise as a Revenue Agent before the Board of Revenue of the North-Western Provinces [or of the Lower Provinces, or as the case may be], and in any office subordinate thereto in such Provinces, for

the period of one year from the date hereof. Given under my hand this day of

186

C. D.

Secretary to the Board of Revenue of the North-Western Provinces [or the Lower Provinces, or as the case may be.]

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of  
India, Home Dept. (Legislative).

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 10th April 1865, and is hereby promulgated for general information:—

## ACT No. XXI of 1865.

*An Act to define and amend the Law relating to Intestate Succession among the Parsees.*

Whereas it is expedient to define and amend the Law relating to Intestate Succession among the Parsees; It is enacted as follows:—

1. Where a Parsee dies leaving a widow and children, the property of which he shall have died intestate shall be divided among the widow and children, so that the share of each son shall be double the share of the widow, and that her share shall be double the share of each daughter.

2. Where a female Parsee dies leaving a widower and children, the property of which she shall have died intestate shall be divided among the widower and such children, so that his share shall be double the share of each of the children.

3. When a Parsee dies leaving children but no widow, the property of which he shall have died intestate shall be divided amongst the children, so that the share of each son shall be four times the share of each daughter.

**4. When a female Parsee dies leaving children but no widower, the property of which she shall have died intestate shall be divided amongst the children in equal shares.**

Division of property amongst the children of female Intestate who leaves no widower.

**5. If any child of a Parsee Intestate shall have died in his or her lifetime, the widow or widower and issue of such child shall take the share which such child would have taken if living at the Intestate's death in such manner as if such deceased child had died immediately after the Intestate's death.**

Division of predeceased child's share of Intestate's property among the widow or widower and issue of such child.

**6. Where a Parsee dies leaving a widow or widower, but without leaving any lineal descendants, his or her father and mother, if both are living, or one of them if the other is dead, shall take one moiety of the property as to which he or she shall have died intestate, and the widow or widower shall take the other moiety. Where both the father and the mother of the Intestate survive him or her, the father's share shall be double the share of the mother. Where neither the father nor the mother of the Intestate survives him or her, the Intestate's relatives on the father's side, in the order specified in the first Schedule hereto annexed, shall take the moiety which the father and the mother would have taken if they had survived the Intestate. The next of kin standing first in the same Schedule shall be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female, standing in the same degree of propinquity. If there be no relatives on the father's side, the Intestate's widow or widower shall take the whole.**

Division of property when the Intestate leaves a widow or widower, but no lineal descendants.

**7. When a Parsee dies leaving neither lineal descendants nor a widow or widower, his or her next of kin, in the order set forth in the second Schedule hereto annexed, shall be entitled to succeed to the whole of the property as to which he or she shall have died intestate. The next of kin standing first in the same Schedule shall always be preferred to those standing second, the second to the third, and so on in succession, provided that the property shall be so distributed as that each male shall take double the share of each female standing in the same degree of propinquity.**

Division of property when the Intestate leaves neither widow nor widower nor lineal descendants.

**8. The following portions of the Indian Succession Act, 1865, shall not apply to Parsees (that is to say) the whole of Part III, the whole of Part IV excepting Section twenty-five, the whole of Part V, and Section forty-three.**

Exemption of Parsees from certain parts of the Indian Succession Act, 1865.

**THE FIRST SCHEDULE.**

- (1.) Brothers and sisters, and the children or lineal descendants of such of them as shall have predeceased the Intestate.

- (2.) Grandfather and grandmother.

- (3.) Grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (4.) Great grandfather and great grandmother.

- (5.) Great grandfather's sons and daughters, and the lineal descendants of such of them as shall have predeceased the Intestate.

**THE SECOND SCHEDULE.**

- (1.) Father and mother.

- (2.) Brothers and sisters and the lineal descendants of such of them as shall have predeceased the Intestate.

- (3.) Paternal grandfather and paternal grandmother.

- (4.) Children of the paternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (5.) Paternal grandfather's father and mother.

- (6.) Paternal grandfather's father's children, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (7.) Brothers and sisters by the mother's side, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (8.) Maternal grandfather and maternal grandmother.

- (9.) Children of the maternal grandfather, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (10.) Son's widow, if she have not re-married at or before the death of the Intestate.

- (11.) Brother's widow, if she have not re-married at or before the death of the Intestate.

- (12.) Paternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

- (13.) Maternal grandfather's son's widow, if she have not re-married at or before the death of the Intestate.

- (14.) Widowers of the intestate's deceased daughters, if they have not re-married at or before the death of the Intestate.

- (15.) Maternal grandfather's father and mother.

- (16.) Children of the maternal grandfather's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

- (17.) Paternal grandmother's father and mother.

- (18.) Children of the paternal grandmother's father, and the lineal descendants of such of them as shall have predeceased the Intestate.

WHITLEY STOKES,

Offg. Asst. Secy. to the Govt. of India,  
Home Dept., (Legislative.)



The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th April 1865, and is hereby promulgated for general information:—

**ACT No. XXII OF 1865.**

*An Act to amend Act No. XVIII of 1864, (to provide for the appointment of a Municipal Committee for the City of Lucknow).*

Whereas it is expedient to amend Act No. XVIII of 1864 (to provide for the appointment of a Municipal Committee for the City of Lucknow); It is enacted as follows:—

**1.** Section twenty-one of the said Act No. XVIII of 1864 is hereby repealed, and the following Section shall be read in lieu thereof.

Act XVIII of 1864.  
Section 21, repealed.

**2.** It shall be lawful for the Governor-General of India in Council, by Order published in the Gazette of India, to extend the said Act to any place under the immediate administration of the Government of India; and when so extended, it shall have effect in such place as if the name of such place were substituted throughout the said Act for the name "Lucknow." The Governor-General of India in Council shall by such Order declare how many persons shall be members, and what and how many persons shall be *ex-officio* members, of the Committee to be constituted in the place to which the said Act shall have been so extended: Provided that the number of such *ex-officio* members shall not be more than one-third of the number of all the members of such Committee.

This Act to be construed with Act XVIII of 1864.

**3.** This Act shall be read and taken as part of the said Act No. XVIII of 1864.

WHITLEY STOKES,

*Offy. Asst. Secy. to the Govt. of India,  
Home Department (Legislative.)*

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 17th April 1865, and is hereby promulgated for general information:—

**ACT No. XXIII OF 1865.**

*An Act to amend the constitution of the Chief Court of Judicature in the Punjab and its Dependencies.*

Whereas it is expedient to amend the constitution of the Court of the Judicial Commissioner of the Punjab and its Dependencies, and to invest the Judges of the Court constituted under this Act with an original jurisdiction for the trial of certain Civil and Criminal cases; It is enacted as follows:—

**1.** In this Act, unless there be something Interpretation of repugnant in the subject or terms. context—

"Punjab" means the Territories for the time being under the Government of the Lieutenant-Governor of the Punjab and its Dependencies.

"Lieutenant-Governor" means the Lieutenant-Governor for the time being of the Punjab.

"Chief Court" means the Chief Court of the Punjab constituted under this Act.

"Judge," "Registrar," and other words denoting any particular Officer respectively include any person for the time being authorized to act as such Judge, Registrar or other Officer.

"Magistrate" denotes any person exercising any of the powers of a Magistrate as defined in the Code of Criminal Procedure.

"Barrister" includes Barristers of England or Ireland, and Members of the Faculty of Advocates in Scotland.

"Section." "Section" denotes a Section of this Act.

Words in the singular include the plural: words in the plural include the singular.

Gender. Words importing the masculine gender include females.

**2.** The Court constituted under this Act shall be styled the Chief Court of the Punjab, and shall consist of two or more Judges, who shall be appointed by the Governor-General of India in Council, and of whom one at least shall always be a Barrister of not less than five years' standing: Provided that the person who at the time of the constitution of the Chief Court shall be the Judicial Commissioner of the Punjab, shall become a Judge of such Court without further appointment for that purpose.

**3.** The Judges of the Chief Court shall have rank and precedence in the Court according to the seniority of their appointments as such Judges.

**4.** The Judges of the Chief Court shall hold their offices during the pleasure of the Governor-General of India in Council.

**5.** Previously to entering on the execution of the duties of his office, every Judge appointed under this Act shall make or subscribe the following declaration before the Lieutenant-Governor or

such authority or person as he may commission to receive the same:—

"I, A. B., appointed Judge of the Chief Court of the Punjab, do solemnly declare that I will faithfully perform the duties of my office to the best of my ability, knowledge, and judgment."

**6.** The Judges of the Chief Court with the sanction of the Lieutenant-Governor may, from time to time, appoint a person to be the Registrar of the said Court. The Registrar shall be the principal Ministerial Officer of the Court, and shall have such powers, and perform such duties, as shall be given and assigned to him by the Court by any rule duly made by the Court under the forty-fourth Section.

**7.** The Judges of the Chief Court may, from time to time, and subject to any rules and restrictions which may be prescribed by the Governor-General of India in Council, appoint a Deputy Registrar and such and so many Clerks and other Ministerial Officers as shall be found necessary for the administration of justice by such Court, and the due execution of the powers and authorities given to it by this Act.

**8.** Every Officer appointed under either of the last two preceding Sections shall be liable to dismissal by order of the Chief Court: Provided that neither the Registrar nor Deputy Registrar shall be removed from office without the sanction of the Lieutenant-Governor.

**9.** The Chief Court shall have, and use as occasion may require, a Seal with this inscription "The Seal of the Chief Court of the Punjab," to be made under the directions of the Lieutenant-Governor; and all summonses, decrees and other process issuing out of the Court shall be stamped with such Seal, and signed by a Judge or the Registrar or Deputy Registrar of the Court.

**10.** Any person duly authorized by the Secretary of State for India in Council to appear, plead or act on his behalf; (2) any suitor appearing, pleading or acting on his own behalf or on behalf of a co-sutor; (3) any person who, for the time being, is an Advocate, Vakeel or Attorney-at-law of any of the High Courts of Judicature in India or of the Sudder Court of the North-Western Provinces,—shall be permitted to appear and act as the Pleader of any suitor in the Chief Court in any suit or touching any matter whatever. Save as aforesaid, no person shall be permitted to appear or act as the Pleader of any suitor in the Chief Court in any suit, or touching any matter whatever, unless such person shall have been previously licensed by the Court to act for the suitors of such Court gener-

ally, or specially for the particular occasion. It shall be lawful for the Judges to make Rules for the qualifications and admission of proper persons to act as Pleaders in the Court.

**11.** The Chief Court may for sufficient reason revoke any license which the Court shall at any time grant to any person to act generally or specially as a Pleader under this Act, and may for sufficient reason suspend any person whatsoever from appearing or acting as a Pleader in any suit, or touching any matter.

**12.** The fees to be received by any Pleader, other than an Advocate of a High Court, shall be subject to the order and control of the Court, and no fees shall be recoverable by any such Pleader except such fees as shall be allowed under the forty-fourth Section.

**13.** The Chief Court shall be the highest Court of Appeal from the Civil and Criminal Courts in the Punjab, and shall (subject to the provision hereinafter contained) be the only Court exercising appellate jurisdiction in such cases (whether relating to the title or succession to land or to the possession or any right in respect of land or otherwise) as are subject to appeal to the highest Civil and Criminal Court in the Punjab, by virtue of any law or practice now in force, or as shall become subject to appeal to the Chief Court by virtue of any law hereafter made by the Governor-General of India in Council. Provided that when a settlement of Land Revenue shall be in progress, and the Local Government, under Act No. XIX of 1865 (*to define the jurisdiction of the Courts of Judicature of the Punjab and its Dependencies*) shall have invested the Financial Commissioner of the Punjab with the power of a Court of final appeal in any class of suits regarding land, or the rent revenue or produce of land, the jurisdiction of the Chief Court shall, so far as regards such class of suits, be barred during the continuance of the power with which such Commissioner shall have been so invested.

**14.** The Chief Court may remove and try and determine as a Court of original jurisdiction any suit being or falling within the jurisdiction of any Court subject to its superintendence when the Chief Court shall think proper to do so, either on the agreement of the parties to that effect, or for purposes of justice.

**15.** The Chief Court may withdraw any suit or appeal from any Court subject to its superintendence other than a Court of Small Causes or a Court of a Cantonment Magistrate, and refer such suit or appeal for trial to any other subordinate Court competent in respect of the value or amount of the suit to try the same.

**16.** The Chief Court may call for the record of any case decided by any Court of Small Causes, or on appeal by any Court subject to its superintendence in which no appeal shall lie to the Chief Court, if such Court of Small Causes or subordinate Court in hearing the appeal shall appear to have exercised a jurisdiction not vested in it by law.

**17.** All special appeals preferred after the date on which the Chief Court is established, from the decrees of Civil Courts of whatever grade in the Punjab, shall lie to and shall be heard by the Chief Court only, and not by any other Court.

**18.** Save as in this Act is otherwise provided, the proceedings in the Chief Court in Civil suits of every description between party and party shall be regulated by the Rules relating to Civil Procedure for the time being in force in the Punjab.

**19.** In the exercise of its Civil jurisdiction, Original as well as Appellate, such Rules of law or equity and good conscience shall (until otherwise provided) be applied by the Chief Court in each case coming before it, as would have been applicable to such case by any local Court having jurisdiction therein.

**20.** The Chief Court shall have power, as a Court of original jurisdiction, to try European British subjects committed to it for trial; and from the date on which this Act shall come into operation, no commitment of a European British subject for trial by a High Court of Judicature, shall be made by any Court or Officer in the Punjab; but every commitment which, if this Act had not been passed, could have been made to a High Court, shall be made to the Chief Court. Whenever any such European British subject shall be committed or bailed for trial before the Chief Court, the Chief Court shall direct at what place within the limits of its jurisdiction the trial shall be held.

**21.** Any Justice of the Peace or Magistrate who shall commit to custody or hold to bail any European British subject for trial before the Chief Court, shall, together with the record of the preliminary enquiry and all recognizances and other documents and any weapon or article of property connected with the case, deliver to the Registrar of the Chief Court a written instrument of charge signed by him, stating for what offence such European British subject is so committed or held to bail.

**22.** The Chief Court shall consider the charge, and may, if it appear necessary or expedient so to do, amend, alter or add to the same. The charge, with such amendments, alterations or ad-

Charge with amendments, alterations or additions (if any) to be recorded.

ditions, if any, shall be recorded in the Chief Court, and the person charged shall be entitled to have a copy of such charge with such amendments, alterations or additions (if any) gratis.

**23.** The person charged shall also, if he demands them at a reasonable time before the trial, be furnished with copies of the depositions of the witnesses upon whose depositions he has been so committed or held to bail, on payment of a reasonable sum for the same, not exceeding one anna for each folio of ninety words.

**24.** Upon charges recorded as aforesaid, persons committed to custody or held to bail shall be deemed to have been brought before the Chief Court in due course of law, and (subject to the provisions contained in the Code of Criminal Procedure as to the amendment and alteration of charges, and subject also to the provisions of the next following Section) shall be tried upon the charges so recorded.

**25.** When any such charge shall have been recorded in the Chief Court as aforesaid, and shall at any time before the commencement of the trial of the person charged, appear to the Chief Court to be clearly unsustainable, an entry to that effect may be made on the charge by a Judge of the Court. Such entry shall have the effect of staying proceedings upon the charge, but shall not operate as an acquittal of the person charged unless and until three years from the time of making the entry shall have elapsed, at the expiration of which period, if no fresh charge have been brought on the same matter, he shall be considered as having been acquitted.

**26.** The Chief Court shall ordinarily hold its sittings at the seat of Government of the Punjab; but it may from time to time, with the approval of the Lieutenant-Governor, hold sittings at such other places in the Punjab as shall seem convenient. Due notice shall be given beforehand in the Official Gazette of all sittings intended to be held for the trial of cases in the exercise of the original Criminal jurisdiction of the Court.

**27.** Pending the directions of the Chief Court as to the place of trial, every such European British subject as is referred to in the twenty-first Section shall (if not out on bail) be committed by the Justice of the Peace or Magistrate for intermediate custody to the nearest Criminal jail in which he can be most conveniently confined. If the trial shall be directed to be held at the usual place of sitting of the Court, the Justice of the Peace or Magistrate shall bind over the person charged to appear and take his trial at such usual place of sitting, or shall commit him to the jail at such place. If the Chief Court shall direct that the person charged be tried else-

where than at its usual place of sitting, the Justice of the Peace or Magistrate shall bind him over to appear and take his trial at the place directed, or shall, if necessary, cause him to be removed to the Criminal jail of or nearest to the place at which he is directed to be tried; and the Officer in charge of such Criminal jail shall keep him in safe custody until discharged in due course of law.

**28.** It shall be lawful for the Chief Court to

Chief Court may order European British subjects committed in certain Districts in certain seasons of the year to be tried at a particular place and confined in a particular jail.

direct that all European British subjects committed or bailed for trial within certain specified Districts or during certain specified periods of the year, shall be tried at the usual place of sitting of the Court, or to direct that they shall be tried at a particular place named, and also to order that such

European British subjects shall, if not bailed, be committed for intermediate custody to a particular jail, being one of the jails appointed by the Government for the reception of such prisoners.

Trials under Section 20 to be by Jury.

**29.** All trials under the twentieth Section shall be by Jury.

**30.** Whenever the Chief Court shall have

Summoning of Jurors to serve on trials.

given notice of its intention to hold sittings at any place (whether at the seat of Government of the Punjab or

otherwise) for the exercise of its original Criminal jurisdiction, the Court of Session at such place shall take and cause to be taken the measures prescribed by Sections three hundred and thirty-six to three hundred and forty, both inclusive, of the Code of Criminal Procedure for the summoning of Jurors; and in addition to the persons so summoned as Jurors, the said Court of Session shall,

Military men not exempt.

if it shall think needful, after communication with the Commanding Officer, cause to be

summoned such number of Commissioned and Non-Commissioned Officers in the Military service resident within ten miles of its place of sitting as the Court shall consider to be necessary to make up the Juries required for the trial of European British subjects charged with offences before the Chief Court as aforesaid. All Commissioned and Non-Commissioned Officers so summoned shall be liable to serve on such Juries notwithstanding anything contained in the Code of Criminal Procedure, but no Commissioned or Non-Commissioned Officer shall be summoned whom his Commanding Officer shall desire to have excused on the ground of urgent Military duty or for any other special Military reason. The Juries for the trial of European British subjects as aforesaid shall be formed in the manner required by the Code of Criminal Procedure and by this Act from the persons summoned under the said Sections of the Code of Criminal Procedure, and from the Commissioned and Non-Commissioned Officers summoned as aforesaid, or, if no such Officers have been summoned, then solely from the persons summoned under the same Sections.

**31.** If any European British subject charged

Jury for trial of European British subject.

as aforesaid shall so require before the Jury shall be empannelled, the majority of the Jurors shall consist of Euro-

peans or Americans or both Europeans and Americans.

**32.** On every trial of an European British

Number of Jury requisite to verdict of guilty.

subject under this Act, the Jury shall consist of twelve persons, and unanimity, or a majority of not less than nine with the concurrence of the presiding Judge, shall be necessary for a verdict of guilty. In default of such unanimity, or of such majority and concurrence, the prisoner shall be acquitted.

**33.** So much of the three hundred and eightieth

Portions of Section 380 of Criminal Procedure Code not to apply to sentences by Chief Court.

Section of the Code of Criminal Procedure as requires the confirmation by the Sudder Court of sentences of death passed by a Court of Session, and so much of the said Section as requires from the Court a statement of the grounds on which a person convicted of an offence made punishable by death by the Indian Penal Code has been sentenced to a punishment other than death, shall not apply to sentences by the Chief Court passed in the exercise of its original Criminal jurisdiction.

**34.** So much of the twenty-sixth Chapter of

Portion of 26th Chapter of Criminal Procedure Code not to apply to sentences of Court.

the Code of Criminal Procedure as requires judgment to be passed by a Criminal Court in any particular form, and as requires that the sentence or finding shall be recorded in any

particular form, shall not apply to judgments, sentences or findings in trials before the Chief Court acting in the exercise of its original Criminal jurisdiction; but the Chief Court shall pass judgment and shall record or cause to be recorded the sentence and finding in such form as it shall think proper.

**35.** When any person has been convicted of

Power to single Judge to reserve for Chief Court any question of law or evidence.

an offence before a Judge of the Chief Court acting in the exercise of its original Criminal jurisdiction, the Judge, if he think proper, may reserve for the decision of a Court consisting

of such Judge and one or more other Judge or Judges of the Chief Court, any question of law or of the admissibility of evidence which has arisen in the course of the trial of such person. If the

Procedure where no such question reserved.

Judge reserve no such question, he shall forward the prisoner with a copy of his sentence and a warrant for the execution

of the same to the Magistrate or other Officer in charge of the jail of the District or place in which the trial was held, and on the receipt of the warrant such Magistrate or other Officer shall proceed as provided in the three hundred and eighty-fifth Section of the Code of Criminal Procedure. If the Judge reserve any question of law or of the admissibility of evidence, the person convicted shall, pending the decision thereon, be remanded to jail. If the decision on the question be adverse to the person convicted, the Court shall send a copy of its sentence and a warrant for the execution of the same to the Magistrate or other Officer in charge of the jail to which the prisoner shall



have been remanded, and such Magistrate or other Officer shall proceed as provided in the same Section.

**36.** Save as is hereinbefore otherwise provided, the Code of Criminal Procedure shall apply to the constitution and formation of Juries for the purpose of trials before the Chief Court acting in the exercise of its original Criminal jurisdiction and to trials before such Court and to sentences by such Court and to the carrying into execution of such sentences.

*Save as aforesaid, Criminal Procedure Code to apply to juries, trials, sentences and execution.*

**37.** Every European British subject apprehended within the Punjab, or delivered into the custody of a Magistrate within the Punjab wherever apprehended, shall be amenable to the law for any offence committed by him within the territory of any Foreign Prince or State, and may be bailed or committed for trial as hereinafter provided on the like evidence as would warrant his being bailed or committed for trial for the same offence if it had been committed in the Punjab.

*British subjects to be amenable for offences committed in foreign territory.*

**38.** The committing Magistrate immediately and before the trial shall report the case to the Lieutenant-Governor, and shall obey the orders which he shall receive thereon, and the Lieutenant-Governor may order the trial to be had before the Chief Court.

*Committing Magistrate to report to the Lieutenant-Governor.*

**39.** When the offence is charged to have been committed in the territory of any Foreign Prince or State, administered by Officers acting under the authority of the Government of India, in which territory a Court competent to try the person charged is established by authority of the Governor-General of India in Council, the Lieutenant-Governor may order such person to be conveyed in custody out of the Punjab for the purpose of delivering him up for trial before such Court.

*If the offence is committed where there is a competent Court, Lieutenant-Governor may take steps to have trial there.*

**40.** When the person charged is committed to custody the form of the warrant shall specify the commitment to be until the orders of the Lieutenant-Governor can be received and acted on. When he is bailed, the form of the bail-bond shall be in the first instance to appear before the Magistrate on a certain day assigned, allowing reasonable time for the receipt of the orders of the Lieutenant-Governor, and on such subsequent days as the Magistrate shall from time to time require. If the Lieutenant-Governor shall order the person charged to be tried in the Chief Court, the Magistrate may cause the bail-bond to be renewed in the usual form to appear and take his trial in such Court.

*Form of warrant of commitment and of bail-bond.*

**41.** In either case the special order of the Lieutenant-Governor shall be deemed full authority either for the trial of the person charged within the Punjab, or for conveying him in custody out of the Punjab as aforesaid.

*Order of Lieutenant-Governor to be full authority.*

**42.** No decree of any Civil Court shall be reversed or modified on appeal, and no sentence of any Criminal Court shall be reversed or modified on appeal or revision, save by the order of not less than two Judges of the Chief Court.

*Two Judges at least necessary to reverse or modify sentences or decrees of Sessions or Civil Judges.*

**43.** Save as herein otherwise provided, the Chief Court may by its own Rules provide for the exercise, by one or more Judges, of the original and appellate jurisdiction vested in such Court, in such manner as may appear to such Court to be convenient for the due administration of justice.

*Chief Court may provide for exercise of the Court's jurisdiction by one or more of its Judges.*

**44.** The Chief Court shall have superintendence over all Courts which may be subject to its appellate jurisdiction, and shall have power to call for returns, to make and issue general rules for regulating the practice and proceedings of the Chief Court and of such subordinate Courts, to give and assign to the Ministerial Officers of the said Chief Court and subordinate Courts respectively such powers and duties as may seem fit, to frame and prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and also for keeping all books, entries, and accounts to be kept by the Officers, and to settle Tables of Fees to be allowed to Pleaders, and from time to time to alter any such rule or form or table; and the rules so made, and the forms so framed, and the tables so settled, shall be published in the Official Gazette, and after being so published shall be used and observed in the Chief Court: Provided that such general rules and forms and tables be not inconsistent with the provisions of this Act or any law in force, and shall before they are issued have received the sanction of the Lieutenant-Governor.

*Chief Court to superintend subordinate Courts, and to frame Rules of practice for itself and such Courts.*

**45.** The Chief Court shall have jurisdiction in all proceedings pending in the Court of the Judicial Commissioner of the Punjab at the time of the constitution of the Chief Court; and all previous proceedings of the Court of the said Commissioner shall be dealt with as if the same had been had in the Chief Court.

*Provisions as to proceedings pending in Judicial Commissioner's Court.*

**46.** If the Chief Court shall consist of two Judges only, and if in any case heard by such Judges sitting together there shall be a difference of opinion between them, the following course shall be pursued, that is to say:—

*Procedure in case of difference of opinion between Judges when Court consists of only two.*

(1st)—If the case be heard in appeal and the difference of opinion shall be on any question of fact in the finding of the Lower Court, the finding shall be upheld.

*1st.—On Appeal on a question of fact.*

(2nd)—If the difference of opinion shall be on a point of law or of usage having the force of law, the ruling of the Lower Court shall in such case also be upheld, unless one of the

*2nd.—On Appeal on a question of law.*

Judges shall be of opinion that the point is one which ought to be referred to the High Court of Judicature at Calcutta, in which case the Judges shall state the point as to which they differ, and forward such statement, with their own opinions respectively, to such High Court. The Chief Court may proceed in the case notwithstanding such reference, and may pass a decree contingent upon the opinion of the High Court on the point referred; but no execution shall be issued in any case in which a reference shall have been made until the receipt of the order of the High Court.

(3rd)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion shall be on a point of law or usage having the force of law,

3rd.—In exercise of original jurisdiction on a question of law. the Judges shall state the point on which they differ, and proceed as last hereinbefore provided. The same rule shall be observed when a difference of opinion may arise between two Judges of the Court upon a point of law reserved under the thirty-fifth Section.

(4th)—If the case be heard by the Judges in the exercise of the original jurisdiction of the Chief Court, and the difference of opinion be on a question of fact, the opinion of the Senior Judge shall prevail, and he shall pronounce his decision as the decision of the Court.

4th.—In exercise of original jurisdiction on a question of fact. 47. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta, shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

47. Cases referred under this Act for the opinion of the High Court of Judicature at Calcutta, shall be heard by not less than three Judges of that Court, and shall be determined according to the opinion of the majority of such Judges.

48. The parties to such cases may appear, plead and act in the said High Court in person, or by an Advocate or Vakeel of such High Court; and the High Court, when it has heard and

considered the case, shall transmit a copy of its opinion under the seal of the Court and the signature of the proper Officer of the Court, to the Judges of the Chief Court. Costs, if any, consequent on the reference of a case for the opinion of the High Court, under the forty-sixth Section, shall be costs in the suit.

Transmission of judgment of High Court and proceeding thereupon.

Costs of reference to High Court.

49. The Chief Court shall keep such registers, books and accounts, and submit to the Lieutenant-Governor such statements of the work done in the Court as may be required by him. The Chief Court shall also comply with such requisitions as may be made by the Governor-General of India in Council or by the Lieutenant-Governor for certified copies of or extracts from the records of the Court.

Copies of records to be furnished. 50. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

50. Save as is in this Act otherwise expressly declared, any function which is hereby directed to be performed by the Chief Court may be performed by any Judge or Judges thereof appointed in that behalf by any rule made under the forty-fourth Section.

51. Whenever the Lieutenant Governor of the Punjab shall, under the authority vested in him by Section forty-seven of the Pleaders, Mookhtars and Revenue Agents' Act, 1865, extend the provisions of the said Act to the Territories under his Government, nothing in the said Act shall affect the provisions of Sections ten, eleven and twelve of this Act.

52. This Act may be cited as "The Punjab Chief Court Act, 1865."

Short title.

53. This Act shall come into operation on such day as the Governor-General of India in Council shall fix by a notification published in the Gazette of India.

Commencement of Act.

WHITLEY STOKES,  
Offg. Asst. Secy. to the Govt. of India,  
Home Department (Legislative).

## HOME DEPARTMENT.

## NOTIFICATIONS.

No. 3598.

*Fort William, 15th April 1865.*

Mr. Maynard Brodhurst, of the Civil Service, is permitted to proceed to Europe on furlough, for a period of two years, from the date of embarkation.

No. 3599.

With reference to the leave of absence granted to Lieutenant Colonel H. L. Thuillier, Surveyor General of India, in G. G. O. No. 364, dated the 5th instant, His Excellency the Governor General in Council is pleased to make the following appointments, viz. :—

Lieutenant Colonel J. T. Walker, Superintendent, Great Trigonometrical Survey, to officiate as Surveyor General of India, with the Superintendence of the Topographical and Great Trigonometrical Surveys.

Lieutenant Colonel D. G. Robinson to officiate as Deputy Surveyor General of India, with the Superintendence of the Revenue Survey.

No. 3600.

*The 17th April 1865.*

Mr. F. R. Hogg, Post Master General of the Punjab, has obtained privilege leave of absence for two months and sixteen days, from the 1st of August next. Of the leave granted to Mr. Hogg on the 16th of February, that Officer availed himself of only fourteen days.

No. 3601.

The Reverend J. Robinson, M. A., Chaplain on the Bengal Ecclesiastical Establishment, is permitted to proceed to Europe on furlough for a period of eighteen months from the date of embarkation.

No. 3602.

The Governor General in Council is pleased to invest the under-mentioned Officers, in the Central Provinces, with the powers of a Magistrate, to be exercised within the precincts of the Jails at Khundwa (Nimar) and Baitool respectively, in respect of the prisoners confined therein :—

Assistant Surgeon G. Y. Hunter, Civil Surgeon, Nimar.

Mr. Apothecary W. Thomas, in Civil Medical charge of Baitool.

No. 3603.

The Governor General in Council is pleased to appoint Assistant Surgeon H. F. McGrath, of the Bombay Medical Establishment, to the Civil Medical charge of Chanda, in the Central Provinces.

No. 3604.

Mirza Ali, Tehseeldar of Jubbulpore, in the Central Provinces, is authorized to hold charge of the Court of Small Causes at Jubbulpore during the absence of Mr. F. Maenaghten, the Judge of that Court, on privilege leave.

No. 3605.

Mr. R. C. A. Hamilton, District Superintendent of Police in Oudh, is allowed twenty days' leave from the 26th of March last, preparatory to availing himself of the leave to Europe for six months granted to him under date the 17th idem.

No. 3606.

Mr. Hugh A. Brown has been appointed Personal Assistant to the Director General of the Post Office of India and Compiler of Post Office Accounts.

No. 3607.

Mr. Charles Galbraith, Officiating Director of Telegraphs, Western Circle, is allowed twelve months' leave under medical certificate, with effect from the 14th of March 1865.

No. 3608.

Mr. J. H. Hussey, 3rd Class Sub-Assistant, attached to No. 7 Topographical Party (Rajpootana Survey), is allowed two months' leave of absence on medical certificate, from the 6th day of March last, in extension of the leave for six months granted to him on the 1st November 1864.

No. 3609.

*The 18th April 1865.*

Mr. H. E. Perkins, of the Civil Service, is permitted to proceed to Europe on furlough for a period of one year from the date of embarkation.

No. 3610.

*The 20th April 1865.*

Mr. E. Grey, of the Civil Service, is permitted to proceed to Europe on furlough for a period of three years from the date of embarkation.

Nos. 3611 &amp; 3612.

Messrs. F. M. Lind and H. M. Chase, of the Bengal Civil Service, have reported their departure from India by the Steam Ship "Golconda," which vessel was left by the Pilot at sea on the 11th instant.

No. 3613.

The Governor General in Council is pleased to make the following promotions in the Great Trigonometrical Survey Department, with effect from the 11th March last, viz. :—

Captain A. B. Melville, to be first Assistant, vice Captain T. G. Montgomerie, who has become a Supernumerary in the Department from the above date.

Lieutenant W. M. Campbell, R. E., to be first Assistant, Junior Grade, vice Captain Melville.

No. 3617.

*The 21st April 1865.*

Mr. H. C. Wake, of the Civil Service, has been permitted to proceed to Europe on furlough for a period of three years from the date of embarkation.

No. 3619.

The Governor General in Council is pleased to grant to Mr. Ambrose Tween, Curator of the Geological Museum, leave of absence for six months on private affairs, under para. 12, Clause I, of the Uncovenanted Service Absentee Rules.

No. 3620.

Lieutenant G. A. Strover, Officiating Deputy Commissioner, 4th Grade, assumed charge of the Office of Magistrate of Akyab in the forenoon of the 4th March 1865, from Major E. J. Spilsbury, Deputy Commissioner, 3rd Grade.

The privilege leave granted by the Chief Commissioner of British Burmah, to Sub-Assistant Surgeon Luckunnarain Bose, in medical charge of the General Dispensary and Seamen's Hospital at Akyab, from 1st November 1864 to the 19th December last, is confirmed.

A. M. MONTEATH,

*Under Secy. to the Govt. of India.***FINANCIAL DEPARTMENT.**

No. 2176.

*Fort William, the 17th April 1865.***NOTIFICATIONS.**

Mr. H. D. Sandeman, Accountant General, Government of Bengal, to be a Director of the Bank of Bengal, during the absence of the Government of India at Simla, or until further orders.

E. H. LUSHINGTON,

*Secy. to the Govt. of India.*

No. 2188.

*The 20th April 1865.*

Baboo D. Teagiah, a Junior Assistant, Financial Department, is allowed four months' leave of absence on medical certificate, in extension of the leave granted to him on 30th September 1864.

No. 2189.

*Extract from the Proceedings of the Government of India, in the Financial Department, dated 20th April 1865.*

Read again Financial Resolution No. 2805, dated 4th October 1864, requesting the opinion of the Local Governments and Administrations on the Report of the Commissioners of Inquiry into Indian Accounts, on the system of Account and Audit in the Civil Department.

Read again the following replies to the requisition, viz.:

From the Chief Commissioner, Central Provinces, No. 100, dated 19th November 1864.

From the Resident at Hyderabad, No. 1035, dated 3rd January 1865.

Read also the following replies to the requisition:—

From the Government of the Straits Settlement, No. 59, dated 21st November 1864.

From the Commissioner for Mysore, No. 1460, dated 12th December 1864. •

From the Chief Commissioner, Oude, No. 3360, dated 13th December 1864.

From the Governor General's Agent, Rajpootana, No. 2031, dated 30th December 1864.

From the Chief Commissioner, British Burmah, No. 971, dated 31st December 1864.

From the Government of the North-Western Provinces, No. 136, dated 16th February 1865.

From the Government of Bombay, No. 183, dated 28th February 1865.

From the Government of the Punjab, dated 23rd March 1865.

From the Government of Madras, No. 174, dated 27th March 1865.

**RESOLUTION.**—By these Reports the Government of India has been put in possession of the opinions of the several Local Governments and Administrations, and of all the Officers of Account, except those of Calcutta. The opinions of these latter have been otherwise obtained, and the following orders are in general accordance with their views.

2. The Report of the Commissioners is chiefly occupied with a criticism of defects in the existing system of Audit and Account, and as their remarks on this head were suggested, mainly, by an inspection of the Books in the Offices at Calcutta, merely, some of the criticisms have proved inapplicable, more or less, to one or other of the Provinces or Presidencies which the Commissioners have not visited.

3. The chief defect in the present system is the total untrustworthiness of the monthly accounts, in consequence of their including numerous entries requiring subsequent adjustment, so that the Financial Department possesses no means of keeping itself acquainted with the progress of the current income and expenditure. Another defect is the delay in closing the annual books of account. The remedy for these defects is the main object of the recommendations of the Commissioners.

4. The procedure in framing and sanctioning the annual Budget Estimates, has necessarily been considered along with the accounts.

5. The Budget Estimates as submitted to the Government of India, in the Financial Department, are in great detail; and on the several recommendations for condensing them, the Governor General in Council is pleased to pass the following orders:—

I. Hitherto, the Budget Estimate has shown the figures proposed by the Deputy Auditor and Accountant General, and the Local Government, respectively, but in future, only one set of figures for the new year shall be submitted to the Government of India, in the Financial Department, viz., those which the Local Government may settle in communication with the Deputy Auditor and Accountant General, and with any Heads of Departments whom the Government may consult. Should the Deputy Auditor and Accountant General differ, he will record his reasons in a paper to be annexed to the Estimate.

II. The grants for Salaries, Establishments, and Contingencies, even when relating to appointments and Establishments for different Districts, will be given in totals for the Presidency or Province, for each Department. District details will be omit-



ted, for both Revenue and Charge, in the Estimates for the Financial Department; but they will be obtained for the use of the Local Government or Administration, under such rules as it may lay down, subject only to a strict conformity to the classification of Receipts and Charges, prescribed by the Government of India.

III. At present, the Budget Estimates show the Estimate for the new year, the Budget and the Regular Estimates for the current or expiring year, and the Actuals of the previous year. These details must be retained in the Estimates for the Local Governments and Administrations; but in those submitted to the Financial Department, the figures for the new year should be contrasted with the Budget Estimate, merely, of the current or expiring year, any considerable difference between them, as also any large increase in the provision for contingencies and temporary Establishments, and in other items, being fully explained in the transmitting letter.

6. The Forms of Estimates and Finance Accounts, proposed by the Commissioners, are approved, with the modifications in the following paras., viz.:—

I. All receipt and payment entries, under Income, Charge, and Debt, which are peculiar to the Home Accounts of the Secretary of State for India, will be omitted from the Indian portion of the accounts, pending the assent of the Secretary of State to the proposition for establishing counterpart books of account in England and India for the revenues and charges of India.

II. In the distribution of charges among Presidencies and Provinces, the expenditure of the Army will be shown under General and Political for the Bengal Army, and under Madras and Bombay for the Armies of those Presidencies.

III. The head "Marine," which is proposed by the Commissioners as an independent head, on the footing of Military, Public Works, and Civil, will continue as a subordinate head in the Civil Estimates, where it will be inserted after "Police."

IV. Allowances and Assignments under Treaties and Engagements should be entered before Miscellaneous.

V. "Allowances, Refunds, and Drawbacks" should be retained under Expenditure.

VI. There will be one entry for Guaranteed Interest, less net Traffic Receipts of Railways, no repayments by Railways being shown on the receipt side.

VII. The loss by Exchange on Railway Transactions will be shown at net, i. e., after deduction of the similar gain by Exchange.

VIII. All transactions on Capital and Revenue Accounts of Railways will be treated in the accounts of the Civil Department in India as Supplies to London.

IX. The present practice of crediting to the Opium Department the cost of its supply of Opium to the Abkaree Department by a debit to Abkaree at the time of supply, and subsequently crediting the whole proceeds of sale of the Opium to Abkaree, will continue.

7. In the General Abstract of the Revenue and Expenditure of India, which forms the first of the proposed series of Estimates, a column for Actuals will be provided, the figures being supplied from the accounts in the Financial Department.

8. The forms of Finance Accounts should also be altered under the following heads:—

#### APPENDIX.

##### REVENUE AND RECEIPTS.

###### Opium.

Instead of "Proceeds of Sale by Auction"—show—

Opium—Behar.

" Benares.

##### EXPENDITURE.

###### Land Revenue.

Settlement charges should be shown as a distinct item.

###### Opium.

Sub-divide—Behar.

Benares.

###### Add—

Transit charges to Presidency.

Presidency Expenses.

Administration and Public Departments.

###### Add—

Military Secretariat.

Public Works Secretariat.

###### Law and Justice.

Instead of "Law Officers and Courts of Small Causes"—show—

Small Cause Courts.

Law Officers of High Courts.

Justices of the Peace, Coroners, and Sheriffs, at the Presidency Towns.

###### Marine.

For "Lighthouses and Establishments at out-ports"—read "Lighthouses."

###### Public Works.

Pensions should be transferred to the Civil Estimates.

9. In issuing the revised forms of Estimates and Finance Accounts, items of sufficient importance to be shown separately, which may be peculiar to any Presidency or Province, will be added in the forms for that division of territory, in communication with the Local Government.

10. On some of the suggestions for reducing work, the following orders are passed:—

I. The Cash Requirement Estimate should be continued.

II. In the Treasury Accounts rendered to the several Deputy Auditors and Accountants General, Collections of Land Revenue will be credited without distinction of past, current, and future years, and a Return thereof will be furnished by the Deputy Auditor and Accountant General, to the controlling Revenue authority, for verification of the aggregate of realizations shown in the Return of Demands, Realizations, and balances of past, current, and future years, which is furnished to those authorities by the Collectors of Revenue.

III. The cost of any Establishment under Civil Administration which can be distinctly referred to any Branch of Revenue, is to appear under the head of that branch: supervising officers (such as Boards of Revenue and Financial and Divisional Commissioners) who administer several branches of Revenue, should be shown under "Administration and Public Departments." The cost of establishments in the Bombay Presidency which are common to both Customs and Salt, including the charge for the Commissioner of Customs, Salt,

and Opium, should be shown under Customs. In the North-Western Provinces and the Central Provinces, the cost of the Customs Line, which principally collects the Salt Revenue, should be shown under Salt. The existing division of the charge for Collectors, &c., between Land Revenue and Law and Justice, must, however, continue, save that the division will not be made on the individual bills, but all these charges will, in the first instance, be carried in the detail books, to a subordinate head under Land Revenue, and a monthly transfer of a moiety of the total amount will be made to the proper subordinate head under Law and Justice.

11. The fundamental changes of system proposed by the Commissioners are—

1st.—The preparation of the Finance Accounts from audited receipts and charges, as recorded in the books.

2nd.—The separation of Cash from Store Accounts and of the accounts of the Civil Department, from those of the Military and Public Works Departments.

3rd.—The consolidation of these separate Cash Accounts, by a central office, into a general account for India.

4th.—The abolition of pre-audit, and the amalgamation of the offices of Deputy Auditor and Accountant General, and Civil Pay Master.

5th.—Unclassified Treasury Accounts.

12. Orders adopting the recommendations under the first two heads have been issued already, and the third, also, must be adopted of necessity.

13. The procedure in consolidating the accounts for India will be as follows:—

I. The Receipts and Disbursements of each Presidency and Province, and of the Military and Public Works Departments, will be written up monthly after audit, and posted.

II. An audited monthly account of Revenue and Receipts, and of Expenditure and Disbursements, will be furnished to the Central Office of Account in Calcutta, by the several Deputy Auditors and Accountants General, and by the Military and Public Works Departments, for consolidation in monthly and annual accounts for India.

III. The same officers, and the Military and Public Works Departments, will prepare, from their own Ledgers, annual accounts, as at present; but the Finance Accounts for Parliament will be prepared from the books of the Central Office.

14. The Commissioners have recommended that there should be but one office, viz., the central office of account, in account current with London. Pending the orders of the Secretary of State on this recommendation, the Account Current with London, kept by the Civil, Military, and Public Works Accountants, will be consolidated in one Account Current for the three Departments, by the Local Civil Accountants, for transmission to London.

15. The Commissioners recommend that revenues and charges belonging to one Presidency, received and paid, respectively, in another Presidency, be treated in the accounts as appertaining to the Presidency in which the receipt or payment occurs. This recommendation has been noticed in some of the replies. The subject affects principally the head of expenditure. The only receipts of any magnitude that would be affected by the recommendation, are certain tributes from Native States, realized through Treasuries subordinate to

the Accountant, North-Western Provinces, which are now credited to the Government of India.

16. The Government of Madras is of opinion that "the Budget of each Presidency should provide for all disbursements which it has to make. On this principle, the Central Provinces, British Burmah, &c., should provide for the Military expenditure incurred in them, but debited to Madras."

17. Inasmuch, however, as the administration of the Madras Army is under the Government of Madras, and as it is indispensable for a proper check of Military expenditure that each of the three Armies, in the three Presidencies, should be estimated for as a whole, the above opinion, as regards the treatment of military expenditure in the accounts, cannot be adopted.

18. There is no objection, however, to the Military Account Department furnishing to each Local Government, for insertion in its Administration Report, a statement of the proportion of total Military charges which can be allotted, rateably to strength, for the military force in the territories under such Local Government.

19. With regard to Civil charges that are disbursed in other than the Presidency or Province to which they in strictness appertain, it is well observed by the Government of the Punjab, and the Deputy Auditor and Accountant General, Madras, that the largest of such payments, viz., Pensions, and Allowances and Assignments under Treaties and Engagements, are already adjusted as charges of the territory in which the payments occur, and that it will be decidedly advantageous to apply the same rule to all other items, such as salaries, the substantive pay of officers on deputation, &c. The substantive pay of officers on deputation is a fair charge of the appointments in which they officiate, i. e., of the place where the payment is made:—while the amount disbursed as salaries to officers absent from their own province on leave, is too unimportant to be a ground for setting aside a wholesome general rule.

20. The Budget difficulty, viz., insufficient provision in one Presidency, for salaries of another Presidency, is met by the remark of the North-Western Provinces Government, that an estimate for the full charge, at the sanctioned scale for salaries, will cover all payments of civil charges on account of other Governments, especially as such payments by one province will be compensated in a measure by similar payments on its account in another province.

21. On these grounds, the Governor General in Council directs that the adjustment of receipts and charges between Presidencies and Provinces shall cease, with the following exceptions.

22. All local receipts and disbursements in the Berars, on account of other Governments, and all similar transactions elsewhere, on account of the Berars, shall be recorded finally in the accounts of the territory in which they occur, as receipts and charges of the Governments or of the Berars, to which they may appertain.

23. The tour charges of the Governor General, and the payments to the Secretariat and other Establishments that accompany His Excellency from the Presidency, will form another exception to the general rule.

24. According to the system of account recommended by the Commissioners, the Office of Account of each Province will prepare a classified digest or abstract of all the receipts and payments

shown in the monthly account of each Treasury, whereby the materials for statistical returns of district details will be preserved in a form convenient for tabulation when required; but these details will be carried through the abstract or detail books for the regular accounts in a way which will bring out one total for all districts under each head of service.

25. The Government of the Punjab remarks, however, that "it seems quite indispensable to allot its own receipts and expenditure to each district, in the Auditor's accounts."

26. There is a misapprehension here of the system recommended by the Commissioners. The grant for Salaries, Establishments, and Contingencies, will be given in totals for the Province; and as salaries and establishments are passed under fixed rules, district details are not required to keep them within Budget limits; while the grant for fluctuating expenditure, or that for temporary establishments, allowances, and contingencies will be allotted to districts and supervised by the Head of the Department. The Treasury Officer and the Deputy Auditor and Accountant General being informed of this allotment, any insufficiency of the provision in a particular district would be noticed, and would be met from a surplus upon some other district; but to this end, it is not necessary to encumber the accounts with a district detail of the progressive expenditure under each head of service during the year. The post-audit registers will provide all needful information; or, in other exceptional cases, it can be collected when required.

27. The several Local Governments and Administrations, as also some of the Deputy Auditors and Accountants General, agree to the abolition of pre-audit, the assent being qualified in some cases by a stipulation for the issue of simple codes of rules for leave of absence, and deputation and travelling allowances, so that the existing checks against erroneous payments may not be relaxed. The materials for such a code have been collected, and it will be issued in the course of the year.

28. The objections to the abolition of pre-audit are partly founded on the supposition that there will not be an efficient post-audit, such as will ensure a proper sense of responsibility in those who draw bills, and in the Heads of Departments who countersign them. But this is a misapprehension.

29. The Hon'ble the Governor of the North-Western Provinces, while assenting to the amalgamation of the Civil Paymaster's with the Deputy Auditor and Accountant General's Office, yet observes, from "a not inconsiderable experience of what has been, and may therefore again occur," that, "looking to the character and calibre of subordinate Native Clerks, their powers of combination, their talent for intrigue, and the extent of the temptations to which they occasionally may be exposed, His Honor regards, with not unnatural reluctance, the abandonment of that system of double check by means of the independent Offices of Examiner of Claims, and Auditor of Accounts, which seems to His Honor almost an essential in the constitution of our administration in India."

30. It is overlooked that this double check was abandoned some years since in the Public Works Department, where the Controllers of Public Works Accounts both examine claims and adjust payments. Moreover, it has not prevailed in the Madras Presidency, and in the Bombay Presidency "the Deputy Auditor and Accountant General does not, at present, critically re-examine vouchers

passed by the Civil Pay Master, nor keep a register of Establishments." Furthermore, the post-audit, under the new system, will be promptly made under competent supervision.

31. On these grounds, and having regard to the imperative necessity of obtaining prompt Accounts based upon audited charges, and to the preponderance of opinion and argument in favour of abolishing pre-audit, and amalgamating the Establishments of the Deputy Auditor and Accountant General, and the Civil Pay Master, it has been determined to give effect to those measures as soon as the necessary arrangements can be made.

32. Apprehensions of two opposite kinds have been expressed with regard to the responsibility to be thrown on the Treasury Officer who is to disburse salaries and allowances without pre-audit. In the 219th paragraph of their Report, the Commissioners proposed the issue of a permanent order to the Officer in charge of the Treasury as his guide in discharging regular monthly bills for salaries and establishments. This permanent order would indicate the sanctioned rate and net amount admissible, and, with regard to contingencies, it would show the monthly limit within which they may be allowed. The Government of Madras requests that it may "be remembered that in this Presidency, the Collector is in entire charge of the District Treasury; and the Government strongly object to any measure tending to lessen this responsibility, or to render the Collector's subordinates in any way independent of him." No such measure was intended by the Commissioners in their recommendation.

33. On the other hand, it has been urged in other quarters that the responsibility of the Treasury Officer with regard to over-payments should be clearly defined.

34. Under the system now to be introduced, equally as under the present system, the privilege of drawing pay abstracts or bills for salary, allowances, or contingent expenses, will be restricted to responsible Officers; and the drawer of the bill will be held answerable for any overcharge. The responsibility of the countersigning Officer will be that which attaches to all controlling Officers, and which brings them under a liability to make good any loss arising from their culpable negligence. The Treasury Officer who makes payments without pre-audit will be responsible for checking any palpable errors, and (in case of change of office, or of rate of salary, of gazetted Officers) for passing the new rate with due reference to the orders directing the change. In short, the responsibility for an overcharge will rest primarily with the drawer of the bill, and (failing recovery from him) the overcharge will be recovered from the Treasury Officer or the Countersigning Officer, only in the event of culpable negligence in either of them.

35. In paragraph 373 of their Report, the Commissioners observed that so long as payment is made by the officer in charge of a Treasury on a proper voucher, the amount "should be passed in the Treasury Account, and any irregularity which may appear in the payment having been in excess of the Budget Grant, or otherwise, should be met by calling on the officer who authorized the payment to explain the cause, or make good the excess. In the case of computations, and other matters where the Treasury Officer has the means of ex-

exercising a check, any incorrect voucher, or overpayment, should be struck out of his account, and he should be directed to alter his balance accordingly."

36. The principle which guided the Commissioners was that when a payment is made on account of a completed service, on a proper voucher, the fact of the payment is not altered, because some portion of it may have been overpaid. The payment must be accepted, and must be recorded as a charge against the grant for which it was made. The amount overpaid, when subsequently recovered, would be credited as a repayment to the grant, or, as would generally be the more convenient course, would be deducted from the amount due upon a succeeding bill for a similar service.

37. The Commissioners recommend that the work of Treasury Officers be simplified by requiring from them accounts unclassified as to charge, and classified, by simpler methods than hitherto, as to receipts of revenue, and in some other cases where receipts or payments of one class are very numerous. The recommendation is approved by the Governments and Administrations in the Bengal Presidency. The Government of the Punjab, and the Board of Revenue, North-Western Provinces, testify that the unclassified account will immensely relieve Treasury Officers.

38. The Government of the North-Western Provinces, indeed, gives a qualified approval, hesitating only as to the ability of the Deputy Auditor General's Office to cope with the additional work in a Province where intelligent Clerks are scarce. In this objection, the relief to that functionary from the compendious journal, and the simpler processes of the new system, has been overlooked, while also regard has not been paid to the consideration that the intelligent labor requisite for classification can be more readily collected in one Office, than in above 80 Treasuries. Erroneous classification by the latter must add to the labor of the Central Office.

39. Accordingly, the unclassified Treasury Account, according to the forms which have been introduced into the Lower Provinces, will be adopted in the remaining Provinces of the Bengal Presidency.

40. In the Presidencies of Madras and Bombay, the classified Treasury Account will be retained for the present, in deference to the very strong representations of the Deputy Auditor and Accountant General, Bombay, and the Government of Madras; but as they have overlooked that through an unclassified account, the post-audit, and the recording of the greater portion of the charges, will be expedited by a month, the Governor General in Council trusts that after experience of the unclassified Treasury account in the Bengal Presidency, it may yet be extended throughout India.

41. Care will be taken to provide each Deputy Auditor and Accountant General with an efficient establishment for an intelligent and prompt audit,

record, and compilation of accounts, but this will be readily effected within the present cost of the establishments.

42. The Journals of the Deputy Auditor and Accountant General will be considerably reduced by being disencumbered of District details and of the elaborate personal account of each gazetted Officer hitherto recorded in the books. That account will be kept, under the new system, in the post-audit Registers. The trouble of examining the Treasury Officer's classification of charges, to the minutest detail, and of correcting errors in his classification, will also cease.

43. Having regard to the large reduction of work under these heads, which will more than compensate for the new work of classifying charges in the Deputy Auditor General's Office, the Governor General in Council feels assured that the unclassified Treasury Account may be introduced with safety into the Bengal Presidency.

44. Orders for the simplification of the Deposit Account have been separately issued, but the Governor General in Council notes the concurrence of the Government of the Punjab in the recommendation of the Commissioners, that all receipts on account of Land Revenue, should be credited when paid into the Treasury, except those in dispute, or belonging, partly, to co-sharers with Government. These must still be placed in deposit.

45. His Excellency in Council also approves of the suggestion of the Chief Commissioner in Oude, that fines imposed in appealable cases be credited at once to revenue, subject to refund on the mere certificate of the Appellate Court.

46. Orders regarding the change in the official year of account are deferred.

47. The new system of Audit and Account, in the Civil Department, recommended by the Commissioners, will, with the modifications directed in this Resolution, be introduced with the Accounts for 1865-66, inclusive.

Ordered, that a copy of this Resolution be sent to the Foreign, Home, Military, and Public Works Departments, to the several Local Governments and Administrations, to Mr. M. H. Foster, and to the Officers of Account and Audit in the Civil Department.

Ordered, also, that a copy of the Resolution be forwarded to the Auditor General of India, with a view to the issue by him of such subsidiary instructions to the several Officers of Account as may be necessary for carrying out the above orders.

Ordered, further, that this Resolution be published in the *Gazette of India*.

No. 2198.

Mr. G. Hough received charge of the office of Deputy Auditor and Accountant General and Civil Pay Master, British Burmah, from Mr. C. R. Kiernander, on the forenoon of the 8th April 1865.



No. 2233.

The following Statement of the Silver received and coined in the Mints of Calcutta, Madras, and Bombay, in February 1865, is published for general information :—

	CALCUTTA.			MADRAS.			BOMBAY.		
	Bullion or Coin received during the month, valued in Rupees.		Coined and examined during the month, valued in Rupees.	Bullion or Coin received during the month, valued in Rupees.		Coined and examined during the month, valued in Rupees.	Bullion or Coin received during the month, valued in Rupees.		Coined and examined during the month, valued in Rupees.
	Govt.	Merchts.		Govt.	Merchts.		Govt.	Merchts.	
In February 1865	1,046	31,00,808	21,71,939	16	59,386	5,18,000	...	7,53,027	32,99,040

No. 2268.

The 21st April 1865.

The Governor General in Council, under the provisions of the 5th Section of Act XIX of 1861, is pleased to constitute the Province of Sindh a Circle of Issue of Government Paper Currency in the Bombay Presidency, and to appoint Kurrachee to be the place of issue of Notes for the said Circle.

The Notes of the Sindh Circle will be a legal tender, on and after the 1st June 1865, for all payments within the Circle, except at the Office of Issue, and will be received in payment of revenue and of all other claims of the Government within the Circle.

The Deputy Commissioner of Issue will issue Notes—

1st.—In exchange for the amount thereof in current silver coin of the Government of India, or

2nd.—In exchange for other Notes of the Government of India issued within the same Circle.

Notes issued at Kurrachee will be payable on demand, in current silver coin of the Government of India, at the Office of the Deputy Commissioner of Issue at Kurrachee and at the Office of the Commissioner of the Department of Issue at Bombay.

The Collector of Kurrachee for the time being to be Deputy Commissioner of Paper Currency of the Sindh Circle.

Mr. W. Wells to be Assistant to the Deputy Commissioner of Paper Currency, Kurrachee.

THOMAS PEACHEY,

Principal Asst. Secy. to the Govt. of India.

**MILITARY DEPARTMENT.**

Fort William, the 15th April 1865.

No. 398 of 1865.—The admission of Lieutenant Nathaniel James Jones, of the late 15th Native Infantry, Quarter Master, 2nd Punjab Infantry, to the Staff Corps, announced in Government General Order No. 128 of the 3rd February 1865, is cancelled, the application for his admission to the Corps having been forwarded under a misapprehension.

The 17th April 1865.

No. 399 of 1865.—The under-mentioned Officer has reported his return from England :—

Date of arrival  
at Fort William.

Lieutenant W. Battye, of the late 6th European Regiment, Wing Officer, Corps of Guides. } 10th April 1865.

No. 400 of 1865.—The Governor General in Council is pleased to notify that the appointments and arrangements for the conduct of business in the Military Department, as laid down in Government General Order No. 338 of the 15th April 1864, will again have effect during the absence this season of His Excellency and the Council from the Presidency.

No. 401 of 1865.—The under-mentioned Out-pensioners of the Royal Hospital at Chelsea having been permitted to reside and draw their stipends in India, payment of pensions are to be made and charged accordingly :—

Rate of pension  
per diem.

Sergeant Major Edward Taylor, late of the 22nd Brigade, Royal Artillery. } 2s. 6d. (two shillings and six pence), from the date on which he ceases to receive Regimental Pay.

Gunner Daniel Pierce, late of the B. Battery, 5th Royal Horse Brigade. } 1s. (one shilling), from the date on which he ceases to receive Regimental Pay.

No. 402 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Lieutenant Colonel Edward James Simpson, of the Bengal Infantry, Officiating Deputy Commissary General, Central Circle, Lucknow. } For 20 months, under the new Regulations.

No. 403 of 1865.—With reference to the Gov-

General Order by the Governor General, dated 20th March 1857.

Government General Order No. 466, dated 27th March 1857.

ernment General Orders noted in the margin, His Excellency the Governor General in Council is pleased to notify that the existing rule, under which an Officer cannot be absent on privilege leave on the 1st January, is abolished, and that all that will be required is that no Officer be allowed privilege leave for more than sixty days at one time, or more than sixty days altogether between the 1st January and the 31st December of each year.

No. 404 of 1865.—His Excellency the Governor General is pleased to make the following appointment on his Personal Staff:—

Captain (Brevet Lieutenant Colonel) S. J. Blane, 52nd Light Infantry, Aide-de-Camp to the Viceroy, to be Military Secretary and Aide-de-Camp, vice Captain E. C. Impey, of the Staff Corps, with effect from the date on which he may relieve Captain Impey.

No. 405 of 1865.—His Excellency the Governor General in Council is pleased to notify for general information, under instructions from the Right Hon'ble the Secretary of State for India, that in all cases where the Prize Money of a deceased Officer or Soldier has been paid over to the Commissioners of Chelsea Hospital, claimants for the same should prefer their claims direct to that Establishment, transmitting, at the same time, such documents as may evidence the correctness of their claims.

No. 406 of 1865.—His Excellency the Governor General in Council is pleased to notify, under instructions from the Right Hon'ble the Secretary of State for India, that when Paymasters of British Regiments serving in India return to England on urgent private affairs or otherwise, they will be entitled to pay during six months only of their actual leave in that country, irrespective of the periods employed in passage, provided the Officers travel Overland; and further that in the case of Paymasters receiving leave of absence from India on the recommendation of a Medical Board, their pay will cease when they shall have been in England for a period of twelve months.

No. 407 of 1865.—The under-mentioned Officers are permitted to proceed to Europe on leave of absence on sick certificate:—

Lieutenant Colonel (Brevet Colonel) Frederick William Burroughs, of the Bengal Infantry. } For 20 months, under the new Regulations.

Lieutenant Charles Adolphus DeKantzow, of the Bengal Staff Corps, Assistant Commissioner, Punjab. } For 20 months, under the new Regulations.

No. 408 of 1865.—With reference to Government General Order No. 318 of 27th ultimo, the following Table of the monthly rates of Pay in

India of Regimental Sergeant Majors of Infantry is published for general information:—

	28 days.	29 days.	30 days.	31 days.
	46 3 5	47 8 11	48 14 4	50 3 10

No. 409 of 1865.—His Excellency the Governor General in Council is pleased to make the following promotion in the Medical Department:—

Deputy Inspector General of Hospitals A. H. Cheke, with temporary rank, to be Deputy Inspector General of Hospitals, vice Deputy Inspector General of Hospitals R. B. Kinsey, deceased.

No. 410 of 1865.—The services of the under-mentioned Officers are placed at the disposal of the Foreign Department:—

Lieutenant C. H. T. Marshall, of the 37th Regiment Native Infantry.

Lieutenant F. G. Hearn, Adjutant, 17th Regiment Native Infantry.

No. 411 of 1865.—The under-mentioned Soldiers of Her Majesty's Service are permitted to reside and draw their pay in India as out-pensioners of Chelsea Hospital, pending a reference to the Home Authorities as to the amount of their pensions, in accordance with the Royal Warrant of the 23rd July 1864:—

Corporal and Lance Sergeant Daniel Rannaghan, of Her Majesty's 107th Foot.

Gunner James Bartlett, of No. 4 Battery, 24th Brigade, Royal Artillery.

No. 412 of 1865.—The services of the under-mentioned Officers are placed at the disposal of the Public Works Department:—

Lieutenant W. J. Engledue, of the Royal Engineers.

Lieutenant J. H. Smith, of the Royal Engineers.

No. 413 of 1865.—The following promotions are made in the Warrant Grades from the dates specified, to fill vacancies:—

#### PUBLIC WORKS DEPARTMENT.

##### To be Deputy Commissary.

Assistant Commissary Francis } From what date.  
Rose ... } 1st April 1865.

##### To be Assistant Commissaries.

Deputy Assistant Commissary } 15th March  
Alexander O'Berne ... } 1864.

Deputy Assistant Commissary } 1st April 1865.  
Edward Gillis ... }

##### To be Deputy Assistant Commissaries.

Conductor J. McArthur ... { 15th March  
... } 1864.

" David Oliver ... 2nd March 1865.

" Thomas Marten ... 1st April 1865.

*To be Conductors.*

Sub-Conductor Edwin Sparling... 2nd March 1865.  
 " H. E. Mitchell... 1st April 1865.

No. 414 of 1865.—The following promotions are made with effect from the dates specified, to fill vacancies :—

## PUBLIC WORKS DEPARTMENT.

*To be Sub-Conductors.*

Sergeant S. Foley ... From what date.  
 " J. Eustace ... 2nd March 1865.  
 " ... 1st April 1865.

No. 415 of 1865.—The Right Hon'ble the Secretary of State for India has been pleased to grant a pension of one shilling a day, payable in England, to Sergeant Patrick Fitzpatrick, of Her Majesty's Bengal Artillery, who has been pronounced unfit for further service.

No. 416 of 1865.—The Right Hon'ble the Governor General in Council is pleased to appoint Captain J. I. Robinson, of the 5th European Light Cavalry, Doing-duty Officer, Stud Department, to the charge of the Ordnance Cattle Farm, Hissar, vice Mr. J. Taylor, deceased.

No. 417 of 1865.—The under-mentioned Warrant Officer has reported his return from England :—

Conductor J. Woodroffe, of the }  
 Army Commissariat Depart- }  
 ment ... } 12th April 1865.

No. 418 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Assistant Surgeon Theodore }  
 Duka, M. D., of the Medi- }  
 cal Department ... } For twenty months,  
 ... } under the new  
 ... } Regulations.

No. 419 of 1865.—Lieutenant Colonel A. C. Plowden, of the Bengal Staff Corps, who was appointed in G. G. O. No. 914 of 1864 a first class Assistant in the Stud Department, subject to passing the tests laid down in G. G. O. No. 581 of 1864, having passed those tests, is confirmed in that appointment.

No. 420 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on leave of absence on sick certificate :—

Lieutenant Colonel (Brevet }  
 Colonel) John Liptrap, of }  
 the Bengal Infantry ... } For twenty months,  
 ... } under the old  
 ... } Regulations.

No. 426 of 1865.—The following promotions are made in the under-mentioned Corps of the Native Army :—

Corps.	Rank and Names.	To what rank promoted.	From what date.	In whose room.
4th Bengal Cavy.	Naib Ressaldar Jyegopal Singh ...	Ressaldar...	1st May 1864	Ruhmutoola Khan, invalided.
Ditto	Kote Duffadar Gholam Jelane Khan ...	Jemadar ...	Ditto	Nussuroodeen Khan, ditto.
Ditto	Ditto Sahib Ali Khan ...	Ditto	Ditto	Sallee Mahomed Khan, do.
Ditto	Ditto Abdoosumud Khan ...	Ditto	Ditto	To complete the establishment.
9th Bengal Cavy.	{Jemadar and late } { Naib Ressaldar } Kapoor Singh ..	Ressaldar	10th Nov. 1862	Ditto ditto.

No. 421 of 1865.—The under-mentioned Officer is permitted to proceed to Europe on urgent private affairs :—

Lieutenant Malcolm George }  
 Clerk, of the late 4th Euro- }  
 pean Regiment, Assistant }  
 Engineer, Department Public }  
 Works, Punjab ... } For six months,  
 ... } without pay.

No. 422 of 1865.—Under the authority of the Right Hon'ble the Secretary of State for India, His Excellency the Governor General in Council is pleased to direct that in future free rations shall be allowed to the families of trained School Masters of all classes, full rations to the wives and half rations to the children, instead of subsistence allowance authorized in G. G. O. No. 367, dated 26th April 1861.

No. 423 of 1865.—His Excellency the Governor General in Council is pleased to make the following appointments :—

## PUNJAB IRREGULAR FORCE.

*1st Infantry.*

Lieutenant J. M. Tulloch, of the General List, Infantry, doing duty with the 41st Native Infantry, to officiate as Doing-duty Officer during the absence of Lieutenant T. T. Oliphant, or until further orders.

*6th Infantry.*

Lieutenant J. E. P. Mosley, of the General List, Infantry, attached to the 25th Regiment Punjab Native Infantry, to be Doing-duty Officer.

No. 424 of 1865.—The under-mentioned students of the Military Class, attached to the Medical College, having been reported qualified to serve as Native Doctors, are admitted into the service accordingly from the dates specified opposite to their respective names, and placed at the disposal of the Officiating Principal Inspector General, Medical Department :—

Azeezur Rohman ... 10th March 1865.  
 Heelal Oodeen ... Ditto.  
 Amanauth Allee ... 13th March 1865.

No. 425 of 1865.—The following promotions are made from the dates specified :—

## ORDNANCE COMMISSARIAT DEPARTMENT.

*To be Sub-Conductors.*

Officiating Sub-Conductor }  
 Edmond S. Gorman. }  
 Officiating Sub-Conductor } 23rd August 1864.  
 Andrew Sinclair. }

H. W. NORMAN, Colonel,  
 Secy. to the Govt. of India.

## Quarterly Report for the Quarter ending 31st March 1865.

*Report on the Examination of the Junior Unpassed Civil Servants in Persian, Urdu, Hindi, and Bengali, held in January 1865.*

## P E R S I A N .

Nos.	Names.	Division of Presidency.	Date of Arrival	Date of Initiatory Examination.	REMARKS.
1	Champneys ...	N. W. P.	Sandheads. 12th Dec. 1863	14th Dec. 1863	Passed in Hindi on 1st June 1864.
2	Crawford ...	Ditto ...	8th Jan. 1864	18th Jan. 1864	Passed in Hindi on 1st July 1864.
3	Lister ...	Ditto ...	11th Dec. 1862	17th Dec. 1862	Leave on Medical Certificate to Europe. Passed in Hindi on 1st April 1863.

## U R D U .

1	Smeaton ...	B. ...	Calcutta. 19th Oct. 1864	1st Nov. 1864	Not passed in any language.
2	Hallett ...	B. ...	Ditto ...	Ditto ...	Passed on the 3rd instant. Qualified for the Public Service, having passed in Bengali on 1st December 1864. Gained a donation of Rs. 800 for passing in two languages in two months. Studying for honors in the Bengali language.
3	Huddleston ...	B. ...	16th Nov. 1864	17th Nov. 1864	Not passed in any language.
4	Neill ...	B. ...	25th Nov. 1864	28th Nov. 1864	Ditto ditto.
5	Gardiner ...	N. W. P.	Ditto ...	Ditto ...	Ditto ditto.
6	Thorburn ...	B. ...	Ditto ...	Ditto ...	Ditto ditto.
7	Hodgkinson ...	B. ...	Ditto ...	Ditto ...	Ditto ditto.
8	Venning ...	N. W. P.	26th Nov. 1864	1st Dec. 1864	Ditto ditto.
9	Rampini ...	Ditto ...	29th Nov. 1864	Ditto ...	Passed on the 3rd instant. Has to pass in a second language.
10	Fryer ...	Ditto ...	Ditto ...	Ditto ...	Not passed in any language.
11	Nicholls ...	Ditto ...	Ditto ...	Ditto ...	Ditto ditto.
12	Rivaz ...	Ditto ...	Ditto ...	Ditto ...	Passed on the 3rd instant. Has to pass in a second language.
13	Pears ...	B. ...	30th Nov. 1864	Ditto ...	Not passed in any language.
14	Wilson ...	B. ...	24th Dec. 1863	2nd Jan. 1864	Studying at Patna. Passed on the 30th December last. Qualified for the Public Service, having passed in Bengali on 1st July 1864.



*Report on the Examination of the Junior Unpassed Civil Servants, &c.,—continued.*

## H I N D I.

Nos.	Names.	Division of Presidency.	Date of Arrival.	Date of Initiatory Examination.	REMARKS.
1	Ellison	N. W. P.	Calcutta. 19th Oct. 1864	1st Nov. 1864	Not passed in any language.
2	Beachcroft	Ditto	14th Nov. 1864	17th Nov. 1864	Passed on the 3rd instant. Has to pass in a second language.
3	Stogdon	Ditto	12th Nov. 1864	Ditto	Not passed in any language.
4	MacAuliffe	Ditto	Sandheads. 9th Feb. 1864	22nd Feb. 1864	Passed on the 3rd instant. Qualified for the Public Service, having passed in Urdu on 1st July 1864.
5	Trafford	Ditto	Calcutta. 29th Nov. 1864	1st Dec. 1864	Not passed in any language.
6	Williams	Ditto	Sandheads. 12th Dec. 1863	14th Dec. 1863	Passed for a Certificate of High Proficiency in Hindi on the 3rd instant. Qualified for the Public Service, having passed in Hindi on 8th February and Persian on 1st July 1864.

## B E N G A L I.

1	Magrath	B.	Sandheads. 14th Nov. 1863	17th Nov. 1863	Passed in Urdu on 2nd May 1864.
2	Mosley	B.	12th Dec. 1863	14th Dec. 1863	Passed in Urdu on 1st June 1864.
3	Dalton	B.	8th Jan. 1864	18th Jan. 1864	Absent on Medical Certificate. Passed in Urdu on 1st September 1864.
4	Bovell	B.	12th Mar. 1864	21st Mar. 1864	Passed in Urdu on 1st July 1864.
5	Gordon	B.	Calcutta. 14th Nov. 1864	17th Nov. 1864	Not passed in any language.
6	Manson	B.	Ditto	Ditto	Ditto ditto.
7	Meres	B.	29th Nov. 1864	1st Dec. 1864	Ditto ditto.
8	Thompson	B.	Sandheads. 17th Jan. 1864	8th Feb. 1864	Passed in Bengali on 1st September 1864. Qualified for the Public Service, having passed in Urdu on 1st June 1864. Studying for honors in the Bengali language.
9	Campbell	B.	17th Jan. 1864	Ditto	Passed in Bengali on 1st September 1864. Qualified for the Public Service, having passed in Urdu on 1st July 1864. Studying for honors in the Bengali language.
10	Kinsey	B.	10th Oct. 1863	15th Oct. 1863	Studying at Dinapore. Passed in Urdu on 1st March 1864.

*Report on the Examination of the Junior Unpassed Civil Servants in Persian, Urdu, Hindi, and Bengali, held in February 1865.*

## P E R S I A N.

Nos.	Names.	Division of Presidency.	Date of Arrival.	Date of Initiatory Examination.	REMARKS.
1	Champneys ...	N. W. P.	Sandheads. 12th Dec. 1863	14th Dec. 1863	Passed in Hindi on 1st June 1864.
2	Crawford ...	Ditto ...	8th Jan. 1864	18th Jan. 1864	Passed on the 1st instant. Qualified for the Public Service, having passed in Hindi on 1st July 1864.
3	Lister ...	Ditto ...	11th Dec. 1862	17th Dec. 1862	Leave on Medical Certificate to Europe. Passed in Hindi on 1st April 1863.

## U R D U.

1	Smeaton ...	B. ...	Calcutta. 19th Oct. 1864	1st Nov. 1864	Passed on the 1st instant. Has to pass in a second language.
2	Huddleston ...	N. W. P.	16th Nov. 1864	17th Nov. 1864	Not passed in any language.
3	Neill ...	Ditto ...	25th Nov. 1864	28th Nov. 1864	Passed on the 1st instant. Has to pass in a second language.
4	Gardiner ...	Ditto ...	Ditto ...	Ditto ...	Ditto ditto.
5	Thorburn ...	Ditto ...	Ditto ...	Ditto ...	Ditto ditto.
6	Hodgkinson ...	B. ...	Ditto ...	Ditto ...	Not passed in any language.
7	Venning ...	N. W. P.	26th Nov. 1864	1st Dec. 1864	Ditto ditto.
8	Fryer ...	Ditto ...	29th Nov. 1864	Ditto ...	Ditto ditto.
9	Nicholls ...	Ditto ...	Ditto ...	Ditto ...	Ditto ditto.
10	Pears ...	B. ...	30th Nov. 1864	Ditto ...	Ditto ditto.
11	Beachcroft ...	N. W. P.	14th Nov. 1864	17th Nov. 1864	Passed in Hindi on 3rd January 1865.
12	Bullock ...	Ditto ...	12th Jan. 1865	16th Jan. 1865	Not passed in any language.

## H I N D I.

1	Ellison ...	N. W. P.	Calcutta. 19th Oct. 1864	1st Nov. 1864	Not passed in any language.
2	Stogdon ...	Ditto ...	12th Nov. 1864	17th Nov. 1864	Ditto ditto.
3	Trafford ...	Ditto ...	29th Nov. 1864	1st Dec. 1864	Ditto ditto.
4	Rivaz ...	Ditto ...	Ditto ...	Ditto ...	Passed on the 1st instant. Qualified for the Public Service, having passed in Urdu on 3rd January 1865. Gained a donation of Rs. 800 for passing in two languages in two months.

*Report on the Examination of the Junior Unpassed Civil Servants, &c.,—continued.*

## BENGALI.

Nos.	Names.	Division of Presidency.	Date of Arrival.	Date of Initiatory Examination.	REMARKS.
1	Magrath	B. ...	Sandheads. 14th Nov. 1863	17th Nov. 1863	Passed on the 1st instant. Qualified for the Public Service, having passed in Urdu on 2nd May 1864.
2	Monley	B. ...	12th Dec. 1863	14th Dec. 1863	Passed on the 1st instant. Qualified for the Public Service, having passed in Urdu on 1st June 1864.
3	Dalton	B. ...	8th Jan. 1864	18th Jan. 1864	Passed in Urdu on 1st September 1864.
4	Bovell	B. ...	12th Mar. 1864	21st Mar. 1864	Passed in Urdu on 1st July 1864.
5	Gordon	B. ...	Calcutta. 14th Nov. 1864	17th Nov. 1864	Passed on the 1st instant. Has to pass in a second language.
6	Manson	B. ...	Ditto ...	Ditto ...	Ditto ditto.
7	Meres	B. ...	29th Nov. 1864	1st Dec. 1864	Not passed in any language.
8	Rampini	B. ...	Ditto ...	Ditto ...	Passed in Urdu on 3rd January 1865.
9	Thompson	B. ...	Sandheads. 17th Jan. 1864	8th Feb. 1864	Passed in Bengali on 1st September 1864. Qualified for the Public Service, having passed in Urdu on 1st June 1864. Studying for honors in the Bengali language.
10	Campbell	B. ...	Ditto ...	Ditto ...	Passed for a Certificate of High Proficiency in Bengali on the 1st instant. Qualified for the Public Service, having passed in Urdu on 1st July and Bengali on 1st September 1864.
11	Hallett	B. ...	Calcutta. 19th Oct. 1864	24th Oct. 1864	Passed in Urdu on 3rd January last. Qualified for the Public Service, having passed in Bengali on 1st December last. Gained a donation of Rs. 800 for passing in two languages in two months. Studying for honors in the Bengali language.
12	Kinsey	B. ...	Sandheads. 10th Oct. 1863	15th Oct. 1863	Studying at Dinapore. Passed on the 1st instant. Qualified for the Public Service, having passed in Urdu on 1st March 1864.